

TAMILNADU

HINDU RELIGIOUS & CHARITABLE ENDOWMENTS MANUAL

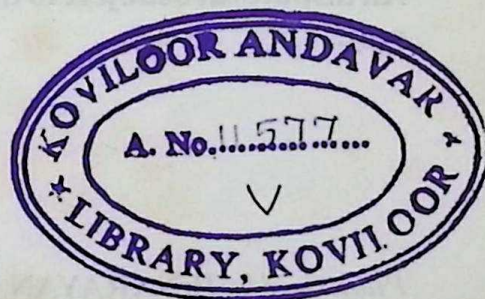
**Honourable Justice
P.S. NARAYANA
(Judge A.P. High Court)**

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**TAMIL NADU HINDU RELIGIOUS AND
CHARITABLE ENDOWMENTS MANUAL**
BASED ON TAMIL NADU ACT XXII OF 1959
[With up-to-date amendment of Acts, Rules and Case Laws]

By
HONOURABLE Mr. JUSTICE P.S.NARAYANA
Foreword by
**THE HONOURABLE THE CHIEF JUSTICE OF
THE MADRAS HIGH COURT
CHIEF JUSTICE Mr.MARKANDEY KATJU**



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PUBLISHER'S NOTE

We have great pleasure in publishing the first edition of the Tamil Nadu Hindu Religious and Charitable Endowments Manual, written by Honourable Mr. Justice P.S. Narayana, Judge of the Andhra Pradesh High Court.

This Manual is a comprehensive publication containing the relevant Rules and other related Acts, Notifications and Case Laws brought upto date.

We earnestly hope that this edition will be found useful by the judiciary, legal practitioners, Advocates connected with H.R. & C.E. and the public.

Chennai

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PUBLISHER

General

Markandey Katju
Chief Justice



17. Greenways Road,
Chennai - 600 028.

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The book is an excellent one with extensive case law upto date and commentary at the relevant places. The amendments to the Act upto date have also been incorporated. I am sure the book will be useful to the Lawyers, Judges and those concerned in the Religious and Charitable Endowments Department.

I am sure the book will be of great use to all concerned.

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PREFACE TO
**TAMIL NADU HINDU RELIGIOUS AND
CHARITABLE ENDOWMENTS MANUAL**

The "Tamil Nadu Hindu Religious and Charitable Endowments Manual" is an attempt to bring in all the laws relating to this subject at one place in the form of this Manual for the convenience of all concerned with this subject in general, and the Tamil Nadu Public in particular. State Legislations on this subject are several and thorough in substance, some of the provisions basically appear to be the same in these Legislations, there are several fundamental differences also in-between these State Legislations. Though certain general principles well govern the field, it is needless to say that specific legislative provisions do operate and prevail. If it is treated as an All India subject, it would be too vast. Hence this idea of releasing this Manual pertaining to Tamil Nadu for the convenience of the public concerned with the subject.

Apart from the Enactment governing the field in the State of Tamil Nadu, care has been taken to incorporate all relevant Rules and also useful Appendixes for better appreciation of the subject.

Tamil Nadu is predominantly more of a traditional State. There are several important and noteworthy Temples apart from Maths, Hindu Religious Charitable Endowments, etc. Certain provisions in the Enactments do reflect the anxiety to protect the traditionalism, customs, usage and other good old religious practices. This Enactment, Act 22 of 1959, has been amended on several occasions to make the same more effective.

Suggestions from all quarters are invited for further improvement of this Manual in future.

Justice P.S. Narayana
Author

THE
JOURNAL OF THE
KOVILLOOR DISTRICT

The Journal of the Kovilloor District is a quarterly publication which contains a full and complete record of all the proceedings of the District Council, and of the various committees and sub-committees, and of the various public works and other matters of interest to the district. It is a valuable source of information to all who are interested in the progress and development of the district.

The Journal is published by the District Council, and is distributed free of charge to all members of the Council, and to all the members of the various committees and sub-committees. It is also available for sale to the public at a price of one anna per copy. The Journal is a valuable source of information to all who are interested in the progress and development of the district.

Printed and Published by the District Council, Kovilloor.

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THE TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT, 1959

INTRODUCTION

“Religion”

Corpus Juris Secundum says:

The word “religion” is derived from “relegare” meaning to re-bind, to bind-back and in its most general sense, it means devotion or fidelity as to a principle or practice, scrupulous conformity; consciousness; deep attachment like that felt for an object of worship.

There is not complete agreement on a definition of the word “religion” as it is used in the Theological sense, and the context of the term is found in the history of the human race, and is incapable of compression into a few words, of it not defined in the Bible or in various State Constitutions, although the word is used in the First Amendment to the Constitution of the United States.

What has been referred to as a “minimum definition” of the word “religion” as stated by a legal philosopher is that the term “religion” has reference to one’s views of his relations to his creator and to the obligations they impose, of reverence for his being and character, and of obedience to his will. As stated by a religious philosopher, “religion” is squaring human life with super-human life, and what is common to all religions is belief in a super-human power and an adjustment of human activities to the requirements of that power, such adjustment which may enable the individual believer to exist more happily.

As generally accepted, “religion” may be defined as a bond uniting man to God and, a virtue, whose purpose is to render God the worship due to him as the source of all being and the principle of all government of things.

The essence of religion is belief in a relation to God, involving duties superior to those arising from any human relation, and it includes a way of life as well as beliefs on the nature of the world. In its broadest sense, “religion” comprehends all systems of belief in the existence of beings superior to and capable of exercising an influence, for good or evil, on the human race, and all forms of worship or service intended to influence or give honour to such superior

powers, any system of faith and worship, morality with a sanction drawn from a future state of rewards and punishment.

In **Black's Law Dictionary**, on the expression "Religion" it is stated:

"Man's relation to Divinity, to reverence, worship, obedience, and submission to mandates and precepts of supernatural or superior beings in its broadest sense, includes all forms of belief in the existence of superior beings, exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments. Bond, uniting man to God, and virtue, whose purpose is to render God worship due to him as source of all beings and principle of all government of things "

The **New Oxford Dictionary of English** states:

"The belief in and worship of a superhuman controlling power, especially a personal God or Gods: ideas about the relationship between science and religion".....

The **Chambers' Dictionary** says:

"A belief in recognition of or an awakened sense of a higher unseen controlling power or powers with the emotion and morality connected with such rites or worship; any system of such belief or worship; devoted fidelity; monastic life; a monastic order."

In **Stroud's Judicial Dictionary**, on the expression "Religion", it is stated:

"What is religion? Is it not what a man honestly believes in and approves of and thinks it his duty to inculcate on others, with regard to this world or the next? A belief in any system of retribution by an overruling power? It must, I think, include the principle of gratitude to an active power who can confer blessings.

It seems to me that "religion" and "faith" are interchangeable words.

The essential elements of religion are belief in and worship of God. The society, in seeking a declaration that its objects (the study and dissemination of ethical principles) were for the advancement of religion, claimed an extension of the meaning of religion to cover these principles, arguing that it need not be theist, it was held that such a definition was not acceptable as religion is concerned with man's relation to God, ethics with man's relation to man".

It is stated in **Old Testament**:

"Worship is not merely an accident but a genuine and essential expression of religion which likes to penetrate the totality of the human life in making not only its personal and spiritual but also its material side a vehicle and mediator of its effects".

The **Supreme Court of America** made an attempt to define "Religion" by laying down certain propositions in *U.S.A. v Seegar* (1965) - 380 U.S. 163. See *Daws v Beason* 1888, U.S. 333, under which it divided worship into:

1. Rituals;
2. Symbols;

3. *Sacraments;*

4. *Sacrifice.*

Dr. Radhakrishnan expressed his opinion:

“When Kant attacked the traditional proofs of God’s existence and asserted at the same time his faith in God as a postulate of moral consciousness, he brought out the essentially non-theoretical character of life in God. It follows that the reality of God is derived from the specifically religious experience which gives peculiar significance to the word God. Man becomes aware of God through experience.”

In “**Words and Phrases**” the term “Religion” is defined:

- “ 1. A belief not necessarily referring to supernatural powers;
2. A cult involving a gregarious association openly expressing the belief;
3. A system of moral practice directly resulting from an adherence to the belief;
4. An organisation with the cult designed to observe the tenets or belief, being of no movement”.

In *The Commissioner, Hindu Religious Endowment, Madras, v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, A.I.R. 1954 S.C. 282, on meaning of “Religion” it was held:

“Religion is a matter of faith with individuals or communities and it is not necessarily Theistic. There are well known religions in India like Buddhism and Jainism which do not believe in God or in any Intelligent First Cause. A religion undoubtedly has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well-being but it will not be correct to say that religion is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept. It might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion and these forms and observances might extend even to matters of food and dress.”

In *Ratilal Panachand Gandhi v. State of Bombay and others*, A.I.R. 1954 S.C. 388, it was held:

“Religion is not necessarily theistic; there are well known religions in India like Buddhism and Jainism which do not believe in the existence of God or of any Intelligent First Cause. A religion has its basis in a system of beliefs and doctrines which are regarded by those who profess that religion is to be conducive to their spiritual well being but it is not correct to say that matters of religion are nothing but matters of religious faith and religious belief. A religion is not merely an opinion, doctrine, or belief. It has its outward expression in acts as well.”

Uniform Civil Code

Article 44 of the Constitution of India dealing with Uniform Civil Code for the citizens, states that the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India. In *Sarala Mudgal v. Union of India*, (1995)11 D.M.C. 352, it was observed:

“Political history of India shows that during the Muslim regime, Justice was administered by the Quazis who would obviously apply the Muslim Scriptural Law to Muslims, but there was no similar assurance so far as litigations concerning Hindus was concerned. The system, more or less, continued during the time of the East India Company until 1772 when Warren Hastings made regulations for the administration of Civil Justice for the native population without discrimination between Hindus and Mohammedans. The 1772 Regulations followed by the Regulations of 1781, whereunder, it was prescribed that either community was to be governed by its “personal” law in matters relating to inheritance, marriage, religious usage and institutions. So far as the Criminal Justice was concerned, the British gradually superseded the Muslim law in 1832 and Criminal Justice was governed by the English Common Law. Finally the Indian Penal Code was enacted in 1860. This broad policy continued throughout the British regime until independence and the territory of India was partitioned by the British Rulers into two states on the basis of religion. Those who preferred to remain in India after the partition, fully know that the Indian leaders did not believe in two-nation or three-nation theory and that in the Indian Republic there was to be only one Nation - Indian Nation - and no community could claim to remain a separate entity on the basis of religion. It would be necessary to emphasise that the respective personal laws were permitted by the British to govern the matters relating to inheritance, marriages, only under the Regulations of 1781 framed by Warren Hastings. The Legislation, not religion, being the authority under personal law was permitted to operate, and is continuing to operate, the same can be superseded, supplemented by introducing a Uniform Civil Code. In this view of the matter no community can oppose the introduction of Uniform Civil Code for all the citizens in the territory of India.

The need for introducing an Uniform Civil Code throughout the territory of India was well emphasized by the Apex Court in *Jorden v. Chopra*, A.I.R. 1985 S.C. 935, *Ahmed v. Shah Banoo*, A.I.R. 1985 S.C. 945, *John Vallamatom and another v. Union of India*, 2003 A.I.R. S.C.W. 3536.

In *Arulmighu Kumbeswarar Koil, Kurinjipadi v. The Commissioner of H.R. and C.E. Department, Madras*, (2003)2 M.L.J.321, it was held: the Court in an earlier suit, had declared that the suit temple is a public temple and that all the public has the right to worship in the temple. Such a temple cannot be a denominational temple. The present suit seeking a declaration that the temple is a denominational temple would be barred by *res judicata*. Though such a declaration had been granted by the lower Courts that the suit temple belonged to the Senguntha Mudaliar community confined to three streets, contrary to the earlier declaration that the suit temple belonged to the Senguntha Mudaliar community, though the parties had not filed an appeal, the High Court in the exercise of the powers under Article 227 of the Constitution and Section 115, CPC, set aside such decree of declaration. Since the office of trusteeship can be acquired by prescription, the right of the Senguntha Mudaliars of the three streets for appointment as trustee cannot be altered. So long as the trustees were appointed from the Senguntha Mudaliar community of the three streets, no general injunction, in restraining

the Department from interfering with the management of the properties can be granted. A scheme decree can be modified by the Court. Instead of seeking modification of the earlier scheme, the plaintiff cannot file a fresh suit. When a representing suit was filed, no declaration in favour of an individual can be granted.

Section-107: The Vellala community people, constituting a section of the Hindu Religious denomination is entitled to establish, and maintain the suit temple for religious and charitable purposes without interference from the department, in view of Article 26 of the Constitution. The plaintiffs pleaded and established that the suit temple was administered only by the people of the Vellala community and they have also been conducting special poojas in particular month and special poojas daily by each member of the community in the temple. One of the members of the community had been a trustee for 42 years. The mere fact that the plaintiffs applied to the department for being appointed as trustees would not amount to giving up their rights to the temple as a denominational institution.

See Aranvoimozhi Sri Nainar Kulasekhara Vinayagar Vellala Samudhaya Temple, Vadakoor Aranvoimozhi represented by its trustees and others v. Palavesam Pillai, (2003)3 M.L.J. 1.

Sections: 1 (3), 6 (18), 6 (20) and 107: The question was whether the suit temple is a denominational temple belonging to the Hindu Vellala Community. The expression 'religious denomination' take their colour from the word 'religion' and it must satisfy three requirements, (1) it must be a collection of individuals who have a system of belief or doctrine which they regard as conducive to their spiritual well-being *i.e.* Common faith, (2) a common organization, and (3) designation of a distinctive name. It necessarily follows that the common faith of the community should be based on religion and in that they should have common religious tenets and the basic cord which connects them should be religion and not merely consideration of caste or community or societal status.

Hindu Vellala community is not shown to be a distinct religious denomination, group, or sect. There was no evidence to show that the community established the temple. The Courts found that the temple is not a private temple. The plaintiffs also by their conduct were estopped from contending that the temple is a denominational one. *Nellore Marthandam Vellalar and others v. The Commissioner, (2003)3 M.L.J. 129 (S.C.)*

The Constitution of India, Articles 25 to 30 - Right to freedom of Religion

In *Adithyan v. Travancore Devaswom Board, (2002)8 S.C.C.106*, it was observed while dealing with the aspect of Priests on Temples and qualifications thereof, that in view of categorical revelations made in the Gita and the dream of Gandhiji that all distinctions based on caste and creed must be abolished and man must be known and recognised by his actions irrespective of the caste to which he may on account of his birth belong.

In *Kalyan Das v. State of Tamil Nadu, A.I.R. 1973 Mad. 264*, it was held:

"If in Hindu religion, a place of worship is also prescribed, then the entire temple precincts from any part of which a devotee can usefully worship has always to be held sacrosanct, no non-Hindu can for pleasure and social evaluation seek entry into such temple. If

there are certain well laid down practices regarding the mode of worship in a Hindu temple and if such ordainments are backed up by a game, therefore, are matters connected with the religion, the Courts cannot lightly ignore such deep-rooted and venerable tenets on the only ground that progressive secularism demands it”.

In *A.S. Narayana Deekshitulu v. State of A.P.*, A.I.R. 1996 S.C. 1765, Abolition of Hereditary rights of Archakas in State of A.P., has been upheld, the same being not violative of Articles 25 and 26 of the Constitution of India.

In *Sri Kanyaka Parameswari Anna Satram v. Commissioner H.R.&C.E.*, A.I.R. 1997 S.C. 2332, worship by Arya Vysyas of Matha Kanyaka Parameswari cannot be termed as denominational in character.

In *Tilkayat Shri Govind Lalji Maharaj v. State of Rajasthan*, A.I.R. 1963 S.C. 1638, it was held that right to manage properties of a temple is secular in character.

In *Emmanuel v. State of Kerala*, A.I.R. 1987 S.C. 748, it was held:

“Notwithstanding the fact that a particular religious belief or practice does not appeal to our reason or sentiment, it would attract the protection of Art. 25 subject of course, to the inhibitions contained therein when the belief is genuinely and conscientiously held as part of the profession or practice of religion”.

In *Rev. Stainislaus v. State of M.P.*, A.I.R. 1997 S.C. 908, it was observed:

“The freedom of religion enshrined in Art. 25 is not guaranteed in respect of one religion only but covers all the religions alike and it can be properly enjoyed by a person if he exercises his right in a manner commensurate with like freedom on persons following the other religions.

Right to Freedom of Religion: See *Syedna Taher v. State of Bombay*, A.I.R. 1962 S.C. 853; *Durgah Committee Ajmer v. Syed Hussain* A.I.R. 1961 S.C. 1402; *Sow Venkatramana Devaru v. State of Mysore*, A.I.R. 1958 S.C. 255; *Commissioner H.R.&C.E. v. Sri J. Laxmendra Thirtha Swamiar*, A.I.R. 1954 S.C. 282; *Mittal v. Union of India*, A.I.R. 1953 S.C. 1; *Acharya Narendra v. State of Gujarat*, A.I.R. 1974 S.C. 2098; *Nambudripad v. State of Madras*, A.I.R. 1954 Mad. 385; *Seshammal v. State of Tamil Nadu*, A.I.R. 1972 S.C. 1586; *Sri Jagannath v. State of Orissa*, A.I.R. 1954 S.C. 400; *Ratilal v. State of Orissa*, A.I.R. 1954 S.C. 388; *Sardar Sarup Singh v. State of Punjab*, A.I.R. 1959 S.C. 860; Section 92 of the Code of Civil Procedure.

Section 92, CPC, dealing with public charities is not applicable to the Hindu Religious and Charitable Endowments in Tamil Nadu, Madhya Pradesh, A.P., Bihar, Bombay, etc.

In *Showmali Lal v. A.G.*, A.I.R. 1955 Raj.166, Sec. 92, CPC was held to be constitutionally valid.

See *Subbayya v. Krishna*, (1981)14 Mad. 186; *Mahant Moti Das v. Sahi* A.I.R. 1959 S.C. 942; *Natesa Achar v. Parasamaya Kolennatha Madam*, (1999)2 M.L.J.585; *State of Bihar v. Charisila Dasi*, A.I.R. 1959 S.C. 1002; *Fazle Hussain v. Yusufally*, A.I.R. 1955 Bom 55; *Narayana Chettiar v. Lashmanan Chettiar*, A.I.R. 1991 S.C. 221; *Sahdev Achari v. District Judge*, A.I.R. 1933 All.151; *Kalumata v. Chatterjee*, A.I.R. 1970 Cal.373; *Kalumata v. Ram Chandra*, A.I.R. 1960 Cal.373; *Rama Rao v. Board of Commissioners*, A.I.R. 1965

S.C. 231; *Ramayya v. Satyanarayana Murthi*, A.I.R. 1936 Mad. 495; *Kanhaiyalal v. Shankar Prasadje*, A.I.R. 1964 M.P.259; *Sudalaimuthu Pillai v. Somasundaram Pillai*, A.I.R. 1925 Mad.722; *Umedbhai v. Ratna Prabha*, A.I.R. 1983 Ker.238; *Mathew v. Thomas*, A.I.R. 1983 Ker. 5; *Mayer Simon v. A.G. Kerala*, A.I.R. 1975 Ker.57; *Laxman v. Mahadev*, A.I.R. 1942 Bom.97; *Lambodar v. Dharani*, A.I.R. 1926 Bom.167; *Laxman Das v. Ranjit Singh*, A.I.R. 1987 P & H 108; *Gurdwara Prabandhak Committee v. Amarjit Singh*, A.I.R. 1984 Del.39; *Adityan v. Kannan*, A.I.R. 1983 Mad.334; *Mahadeo v. Gowndarao*, A.I.R. 1937 Bom. 421; *Chandrapal v. Junabharthi*, A.I.R. 1931 Bom. 391; *Prakash Chandra v. Subodh Chandra*, A.I.R. 1937 Cal. 67; *Ram Saroop v. Union of India*, A.I.R. 1985 Del.318; *Meenakshi v. Commissioner*, A.I.R. 1966 Mad. 475; *Pramatha Nath v. Pradhyamna Kumar*, A.I.R. 1925 P.C. 129; *Krishna v. Alwarppa*, A.I.R. 1933 Mad 70; *Ahmad Adam v. Makrhi*, A.I.R. 1964 S.C. 107; *Pragdasju v. Ishwarlalbhai*, A.I.R. 1952 S.C. 143; *Raje Anandrao v. Shamrao*, A.I.R. 1961 S.C. 1206; *Swami Parmatmanand v. Ramji Tripathi*, A.I.R. 1974 S.C. 2141; *Sugra Bibi v. Haji Kummu*, A.I.R. 1969 S.C. 884; *Madappa v. Mahantha Devaru*, A.I.R. 1966 S.C. 878; *Chanchu Raru v. Govt. of A.P.*, A.I.R. (1986)3 S.C. 391; *Rajan v. State of Kerala*, A.I.R. 1944 Ker.179; *Kintali v. Laxmi*, A.I.R. 1988 Orissa 100; *Kabul Singh v. Ram Singh*, A.I.R. 1986 All.75; *Radhaswami v. Gurnam Singh*, A.I.R. 1972 Raj. 263; *Sukumaran v. Akamala*, A.I.R. 1922 Ker.407; *Narain Lal v. Sunderlal*, A.I.R. 1967 S.C. 1540; *Sivagurunatha v. Manu Pillai*, A.I.R. 1984 Mad.328; *Ram Prakash v. Dayachand*, A.I.R. 1986 P & H 237; *Kumudavalli v. Purushottam*, A.I.R. 1978 Mad.205.

During a particular day of the festival of the temple, two Tatachariars were offered the garlands worn by the deity. This was disputed by the Ubhayadar who claimed that the garland supplied by him and adorned on the deity must be offered to him in preference. The right claimed by the Ubhayadars based on custom and usage is of a civil nature and the contrary view of the State was unsustainable. However, all the parties settled the matter amicably. *K.K.A. Ananthalan v. State of Tamil Nadu Rep. by the Secretary to Government Tamil Development Culture and Religious Endowment Department Chennai and others* (2004)2 M.L.J. 462.

Explanations 1 and 2 of Sec. 9 CPC:

Explanation 1 of Section 9 CPC says that a suit in which the right to property or to an office is contested, is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Explanation 2 of Section 9 CPC specifies that for the purposes of this Section, it is immaterial whether or not any fees are attached to the office referred to in Explanation 1 or whether or not such office is attached to a particular place.

See *Mayalagu v. Karuppaiah*, (1991)2 M.L.J. 21; *Sunha Ramanuja v. Ranga Ramaniya*, A.I.R. 1961 S.C. 1720; *P.M.A. Metropolitan v. Marthoma*, A.I.R. 1995 S.C. 2001; *Nara Hari v. Badownath Temple Committee*, A.I.R. 1952 S.C. 245; *Ugam Singh v. Kerrimal* A.I.R. 1971 S.C. 2540; *Shankar v. Malhar*, A.I.R. 1931 Bom.273; *Krishnama v. Krishnasami*, (1979) 2 Mad.62; *Kasam v. Kaji*, A.I.R. 1926 Bom.161; *Gadhadhar v. Puna*, A.I.R. 1971 Orissa 155; *Mamat Ram v. Bapuram*, (1888) 15 Cal. 159; *Hura v. Bachu*, A.I.R. 1916 Patna 215; *Ramaswamy v. Lakshmanan*, A.I.R. 1939 Mad. 886; *Sarvalal v. Ram Narain*,

A.I.R. 1959 A.P. 307; *Gopal Rao v. Shiva*, A.I.R. 1953 Hyd.1; *Sundhar v. Jayachandra*, A.I.R. 1959 All. 598; *Suryanarayana v. Rama Rao*, A.I.R. 1953 Mad.701; *Govindaswamy Naidu v. Koomavalli*, (1993)2 M.L.J. 390; *National Spiritual Assembly of Bahais in India v. Cyrus Mazkooor*, A.I.R. 1998 Bom. 361; *Koil Pillai v. Territorial Commander Salvation Army*, A.I.R. 1994 Mad. 27; *Pushpagiri Mutt v. Veerabhadra Rao*, A.I.R. 1996 S.C. 2225.

In *Subbroya Mudali v. Velappa Mudali*, (1958)2 M.L.J. 591, it was held that a claim to participate along with defendants in kumbabishekam ceremony of a renovated temple owned by both parties would not be for the administration or management of a religious institution within the meaning of Section 93 of the Madras Hindu Religious and Charitable Endowments Act, 1951.

In *Muthuswami Gurukkul v. Ayyasami Thevan*, (1958)1 M.L.J. 256 it was held that in a suit to set aside the order of the Commissioner and declare the plaintiff as hereditary trustee, Court can grant interim injunction restraining newly appointed trustee from interfering with plaintiff's possession of temple lands. The Division Bench in fact considered *Nallamothu v. Chowmperayya*, (1952)2 M.L.J. 441 and distinguished the same.

A suit by one section of a community against a rival section of that community to enforce their right to participate in conduct of ceremony cannot be held to be a suit for administration or management, and hence maintainable, *Kattayam Achary v. Rangaswamy Achary*, (1959)1 M.L.J. 123.

See *Sastri Ammal v. Pravalavarna Naicker*, (1955)2 M.L.J. 612. *Vythinatha Pandara Sannadhi v. Ranganatha Mudaliar*, I.L.R. 57 Mad. 362.

Possession of Hereditary Office

In *Ramlingam Chettiar v. Ranganathan Chettiar*, A.I.R. 1974 Mad. 27 : (1973) 1 M.L.J. 288, it was held that adverse possession against one to the office of trusteeship would not operate against another if the other person does not claim through the person whose right is lost by limitation.

In *Illango v. Gopalakrishnan*, A.I.R. 1976 Mad. 75, it was held that in cases of private trusts, the modes by which trustees are ordained to hold their office as such is generally set out in the recitals of the relative trust deed itself and in the absence of any such deed in writing, Courts often rely upon the circumstantial evidence and other acceptable material placed before them to find the rule by which the trustees hold such office in relation to private trusts.

Statutory Construction - History of Legislation

"By interpretation or construction is meant the process by which the Courts seek to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed". In *Bhatia International v. Bulk Trading*, A.I.R. 2002 S.C. 1432 : 2002 (4) S.C.C. 105, the aspect of judicial art of interpretation had been well explained. In special Reference No. 1 of 2002. In re *Gujarat Assembly Election matter*, (2002)8 S.C.C. 237 while dealing with contextual construction, it was observed that in preceding key to the meaning of any word or expression, the context in which it is said, has significance. Cooley in *Constitutional Limitations* says:

“Interpretation differs from construction in that the former is the art of finding out the true sense of any form of words, that is, the sense which their author intended to convey and of enabling others to derive from them the same idea which the author intended to convey. Construction, on the other hand, is the drawing of conclusions, respecting subjects that were beyond the direct expression of the text, from elements known from and given in the text, conclusions which are in the spirit though not within the letter of the law”.

PREAMBLE

See *Tribhuvan Prakash Nayyar v. Union of India*, A.I.R. 1970 S.C. 543; *Motipur Zamindari Company (P) Ltd. v. State of Bihar*, A.I.R. 1962 S.C. 660; *Maharao Sahab Shri Blumsinghji v. Union of India*, A.I.R. 1981 S.C. 234; *Union of India v. Elphinstone Spinning & Weaving Co. Ltd.*, A.I.R. 2001 S.C. 724; *Burrakur Coal Co. v. Union of India*, A.I.R. 1961 S.C. 954; *Raghubar Singh v. State of U.P.*, A.I.R. 1957 S.C. 478; *In re Kerala Education Bill*, A.I.R. 1958 S.C. 956; *Sardar Inder Singh v. State of Rajasthan*, A.I.R. 1957 S.C. 510; *State of Rajasthan v. Leela Jain*, A.I.R. 1965 S.C. 1296; *A.C. Sharma v. Delhi Administration*, A.I.R. 173 S.C. 913; *Arnit Das v. State of Bihar*, A.I.R. 2000 S.C. 2264; *Rashtriya Mill Mazdoor Sangh v. National Textile Corporation*, A.I.R. 1997 S.C. 710; *Tangal Kunju Musalvar v. Venkatachalapotti*, A.I.R. 1956 S.C. 246; *Regional Transport Authority v. D.P. Sharma*, A.I.R. 1989 S.C. 509.

DEFINITIONS

See *Gollaleshwar Dev v. Gangavwa Kom Shantayya Math*, A.I.R. 1986 S.C. 231; *Kasilingam v. P.S.G. College of Technology*, A.I.R. 1995 S.C. 1395; *Tata Tea Ltd. v. State of Bombay*, A.I.R. 1988 S.C. 1435; *Vanguard Fore & General Insurance Co. Ltd. Madras v. Fraser & Ross*, A.I.R. 1960 S.C. 971; *Jagatram Ahuya v. Commissioner of Gift Tax*, A.I.R. 2000 S.C. 3195; *Commissioner of Income Tax v. Sundaram Sparring Mills Madras*, A.I.R. 2000 S.C. 490; *Kushanlal v. State of Rajasthan*, A.I.R. 1990 S.C. 2269; *State of Kerala v. Verghese* A.I.R. 1987 S.C. 33; *M.S.C.O Pvt. Ltd. v. Union of India*, A.I.R. 1985 S.C. 76; *Anand Nivas (P) Ltd. v. Anandji Kalyanji's Pedhi*, A.I.R. 1965 S.C. 414; *National Building Construction Corp v. Pritam Singh Gill*, A.I.R. 1972 S.C. 1579; *T. M. Kannian v. I.T.O Pondicherry*, A.I.R. 1968 S.C. 637; *Ram Kishore Sen v. Union of India*, A.I.R. 1966 S.C. 644; *Pushpa Devi v. Mulkhi Ram*, A.I.R. 1990 S.C. 808; *Special Officer and Competent Authority Urban Land Ceilings, Hyderabad v. P.S. Rao*, A.I.R. 2000 S.C. 843; *Bank of India v. Yogendra Kumar Srivastava*, A.I.R. 1987 S.C. 1399; *K.V. Muthu v. Angamuthu Ammal*, A.I.R. 1997 S.C. 628; *N.K. Jain v. C.K. Shah*, A.I.R. 1991 S.C. 1289; *CIT Gujarat v. Vadilal Lallubhai*, A.I.R. 1973 S.C. 1016; *National Buildings Construction Corp. Ltd v. Pritam Singh Gill*, A.I.R. 1972 S.C. 1579; *State of M.P. v. Saith and Skelton (P) Ltd.*, A.I.R. 1972 S.C. 1507; *Bennet Coleman & Co v. Punya Pujya Das Gupta*, A.I.R. 1970 S.C. 426; *Coir Board, Ernakulam, Cochin v. Indira Devi*, A.I.R. 1998 S.C. 2801; *Agriculture Produce Market Committee v. Ashok Harkuni*, A.I.R. 2000 S.C. 3116; *Physical Research Laboratory v. K.G. Sharma*, A.I.R. 1997 S.C. 1855; *Karnani Properties Ltd. v. State of West Bengal*, A.I.R. 1990 S.C. 2047; *All India Radio v. Santosh Kumar*, A.I.R. 1998 S.C. 941; *General Manager, Telecom v. Sreenivasa Rao*, A.I.R. 1998 S.C. 656; *Des Raj v. State of Punjab*, A.I.R. 1998 S.C. 1182; *Bangalore Water Supply and Sewerage*

Board v. Rajappa, A.I.R. 1978 S.C. 548; *University of Delhi v. Ramnath*, A.I.R. 1963 S.C. 1873; *Madras Gymkhana Club Employees Union v. Management*, A.I.R. 1968 S.C. 554; *Management of Safdarjung Hospital v. Kuldeep Singh*, A.I.R. 1970 S.C. 1407; *South Gujarat Roofing Tile Manufacturers Association v. State of Gujarat*, A.I.R. 1977 S.C. 90; *R.B.I v. Peerless General Finance and Investment Co.Ltd.*, A.I.R. 1987 S.C. 1023; *Pioneer Rubber Plantation, Nilambur v. State of Kerala*, A.I.R. 1993 S.C. 192; *Narpatchand A. Bhandari v. Shantilal Mool Shankar Jain*, A.I.R. 1993 S.C. 1712; *Mahalaxmi Oil Mills v. State of A.P.*, A.I.R. 1989 S.C. 335; *Hariprasad Shiv Shanker Shukla v. A.D. Divakar*, A.I.R. 1957 S.C. 121; *J & K Cotton Spinning & Weaving Mills Company Ltd. v. State of U.P.*, A.I.R. 1990 S.C. 1808; *National Union of Commercial Employees v. M.R. Mehar*, A.I.R. 1962 S.C. 1080; *State of Bombay v. Hospital Mazdoor Sabha*, A.I.R. 1960 S.C. 610; *Commissioner of Gift Tax Madras v. N.S. Getty Chettiar*, A.I.R. 1971 S.C. 2410; *Rajasthan Housing Board v. Parvati Devi*, A.I.R. 2000 S.C. 1940; *Tata Engineering Locomotive Co. Ltd. v. Registrar of the Restrictive Trade Agreement*, A.I.R. 1977 S.C. 973; *Venu Gopal v. LIC.*, A.I.R. 1994 S.C. 1343.

In *Feroze N. Dotivala v. Wadhawani*, (2003)1 S.C.C. 433, It was held that where a term is defined in a statute, it must be taken to have been used in its ordinary sense.

INTENTION OF THE LEGISLATURE

See *R. v. Hinks*, (2000)4 All E R 833; *Dinesh Chandra Jamnadas Gandhi v. State of Gujarat*, A.I.R. 1989 S.C. 1011; *Black Clawson International Ltd. v. Papierwerke of Aschaffenburg.*, 1975 (1) All E R 810; *Institute of Chartered Accountants of India v. Price WaterHouse*, A.I.R. 1998 S.C. 74; *Vishnu Pratap Sugar Works v. Chief Inspector of Stamps U.P.*, A.I.R. 1968 S.C. 102; *Venkataswami Naidu v. Narasram Naraindas*, A.I.R. 1966 S.C. 361; *R v. Secretary of State for the Environment v. Ex parte Spath Holme*, (2001)1 All E R 195; *Narayanaswami v. Panneerselvam*, A.I.R. 1972 S.C. 2284; *South Asia Industries (Pvt) Ltd. v. Sarup Singh*, A.I.R. 1966 S.C. 346; *R M D Chamerbangwala v. Union of India*, A.I.R. 1957 S.C. 628; *Stuck v. Frank Jones Ltd*, (1978)1 All E R 948; *Prithipal Singh v. Union of India*, A.I.R. 1982 S.C. 1413; *Manusell v. Olius*, (1975)1 All E R 16; *Chief Justice AP v. LVA. Dikshutulu*, A.I.R. 1979 S.C. 193; *State of Maharashtra v. Jagannath Achyut Karandikar*, A.I.R. 1989 S.C. 1133; *Jones v. Secretary of State*, (1972)1 All E R 145; *M.S.M. Sharma v. Shri Krishna Sinha*, A.I.R. 1959 S.C. 395; *Carter v. Brad Beer*, (1975)3 All E R 158; *In re Art.143 Constitution of India*, A.I.R. 1965 S.C. 745; *Jiyajeerao Cotton Mills v. M.P. Electricity Board*, A.I.R. 1989 S.C. 788; *Ramnathan v. State of Tamilnadu*, A.I.R. 1985 S.C. 660; *Ballimal Naval Kishore v. Commissioner of Income Tax.*, A.I.R. 1997 S.C. 851; *State of U.P. v. Dewdayal Singh*, A.I.R. 2000 S.C. 961; *State of Bihar v. S.K. Roy*, A.I.R. 1966 S.C. 1995; *International Air Port Authority Employees Union v. International Airports Authority of India*, A.I.R. 2001 S.C. 276; *State of Bombay v. Venkat Rao Krishna Rao*, A.I.R. 1966 S.C. 991; *Commissioner of Income tax Bombay v. Gwalior Rayon Silk Manufacturing Co. Ltd.*, A.I.R. 1992 S.C. 1782; *Municipal Corpn. of Greater Bombay v. I.O.C.*, A.I.R. 1991 S.C. 686; *CIT. Punjab v. Alps Theatre*, A.I.R. 1967 S.C. 1437; *Union of India v. Elphinstone Spinning and Weaving Co. Ltd.*, A.I.R. 2001 S.C. 724; *P.V. Narasimha Rao v. State*, A.I.R. 1998 S.C. 2120; *Municipal*

Corpn Delhi v. Mohd. Yasin, A.I.R. 1983 S.C. 617; *Deputy Chief Controller of Imports and Exports v. Kosalram*, A.I.R. 1971 S.C. 1283; *Doy Pack Systems v. Union of India*, A.I.R. 1988 S.C. 782; *Girdharilal and Sons v. Balbir Nath Mathur*, A.I.R. 1986 S.C. 1099; *Oliver Ashworth Ltd. v. Bellard (Kent) Ltd.*, (1999)2 All E R 791; *Amrit Das v. State of Bihar*, A.I.R. 2000 S.C. 2264; *Aluminium Corp. of India v. Union of India*, A.I.R. 1975 S.C. 2279; *Palace Administrative Board v. RVB Thampuran*, A.I.R. 1980 S.C. 1187; *Chitan J Vaswani v. State of West Bengal*, A.I.R. 1975 S.C. 2473; *Superintendent and Remembrancer of Legal Affairs, West Bengal v. Corpn of Calcutta.*, A.I.R. 1967 S.C. 997; *M.P.Oil Extraction v. State of M.P.*, A.I.R. 1998 S.C. 145; *Attorney General v. H.R.H.Prince Ernest Augustus*, (1957)1 All E R 49; *State of Punjab v. Surinder Kumar*, A.I.R. 1992 S.C. 1593; *Supreme Court Bar Association v. Union of India*, A.I.R. 1998 S.C. 1895; *Kleen Work Beuron Ltd. v. Lincoln City Council*, (1998)4 All E R 513; *Union of India v. Deoki Nandan Agarwal*, A.I.R. 1992 S.C. 96; *Woolwich Building Society v. Inland Revenue Commissioners*, (1992)3 All E R 737; *Madhu Kishwar v. State of Bihar*, A.I.R. 1996 S.C. 1864; *National Textile Workers Union v. Ramakrishnan*, A.I.R. 1983 S.C. 75; *Mohd. Ahmed Khan v. Shah Banu Begum*, A.I.R. 1985 S.C. 945; *Duport Steels Ltd. v. Sirs*, (1980)1 All E R 529; *Manohar v. Marotrao*, A.I.R. 1979 S.C. 1084; *Charanlal Sabu v. Union of India*, A.I.R. 1990 S.C. 1480; *Gurdial Batra v. Rajkumar Jain*, A.I.R. 1989 S.C. 1841; *Mohan Lal v. Jai Bhagwan*, A.I.R. 1988 S.C. 1034; *Rangadurai v. Gopalan*, A.I.R. 1979 S.C. 281; *RL Arora v. State of U.P.*, A.I.R. 1964 S.C. 1230; *Collector of Central Excise v. Raghuvar (India) Ltd.*, A.I.R. 2000 S.C. 2027; *Venkatachalam v. Dy. Transport Commissioner*, A.I.R. 1977 S.C. 842; *Harbhajan Singh v. Press Council of India*, (2002)4 S.C.C. 722; *Rita Dew v. New India Assurance Co. Ltd.*, A.I.R. 2000 S.C. 1930; *Commissioner of Income Tax v. Bhattacharjee*, A.I.R. 1979 S.C. 1725; *Captain Rameshchandra v. Veena*, A.I.R. 1978 S.C. 1807; *Ajaib Singh v. Surbind Co.Op. Marketing cum Processing Service Society Ltd.*, A.I.R. 1999 S.C. 1351; *Sha Mulchand and Co. v. Jawahar Mills Ltd.*, A.I.R. 1953 S.C. 98; *Prativa Bose v. Rupendra Deb.*, A.I.R. 1965 S.C. 540; *Bombay Gas Co. Ltd. v. Gopal Bhiva*, A.I.R. 1964 S.C. 752; *State of H.P. v. Kailash Chand Mahajan*, A.I.R. 1992 S.C. 1277; *Bola v. Sardana*, A.I.R. 1997 S.C. 3127; *Wazurchand Mahajan v. Union of India*, A.I.R. 1967 S.C. 990; *Union of India v. Sankalchand Himmatlal Sheth*, A.I.R. 1977 S.C. 2328; *Collector of Estate Duty v. Kantilal*, A.I.R. 1976 S.C. 1935; *Ramakrishna Ramnath v. Janpad Sabha*, A.I.R. 1962 S.C. 1073; *Ramakrishnan v. State of Delhi*, A.I.R. 1956 S.C. 476; *Sarala Mudgal v. Union of India*, A.I.R. 1995 S.C. 1531; *Poppatlal v. State of Madras*, A.I.R. 1953 S.C. 274; *Kanta Goel v. Pathak*, A.I.R. 1977 S.C. 1599; *Atma Ram Mittal v. Ishwar Singh Punia*, A.I.R. 1988 S.C. 2031; *Bar Council of Maharashtra v. Dubholkar*, A.I.R. 1975 S.C. 2092; *Carew and Company Ltd. v. Union of India*, A.I.R. 1975 S.C. 2260; *Kanwar Singh v. Delhi Administration*, A.I.R. 1965 S.C. 871; *Sheikh Gulfan v. Sanat Kumar*, A.I.R. 1965 S.C. 1839; *Chairman, Board of Mining Examination and Chief Inspector of Mines v. Ramjee*, A.I.R. 1977 S.C. 965; *Organo Chemical Industries v. Union of India*, A.I.R. 1979 S.C. 1803; *State of Punjab v. Okara Grain Buyers Syndicate Ltd.*, A.I.R. 1964 S.C. 669; *State of M.P. v. GS Dall and Flour Mills*, A.I.R. 1991 S.C. 772; *Umed v. Raj Singh*, A.I.R. 1975 S.C. 43; *Hansraj v. Dave*, A.I.R. 1970 S.C. 735; *R.L. Arora v. State of U.P.*, A.I.R. 1964 S.C. 1230; *P.K. Ramachandran v. State of Kerala*,

A.I.R. 1998 S.C. 2276; *Rudraiah v. State of Karnataka*, A.I.R. 1998 S.C. 1070; *Rangappa v. State of Karnataka*, A.I.R. 1999 S.C. 1509; *Collector of Central Excise v. MM Rubber and Co.*, A.I.R. 1991 S.C. 2141; *Kaliyappan v. State of Kerala*, A.I.R. 1989 S.C. 239; *Anandilal v. Ramnarain*, A.I.R. 1984 S.C. 1383; *Precision Steel and Engineering Works v. Prem Deva*, A.I.R. 1982 S.C. 1518; *Assistant Transport Commissioner Lucknow v. Nand Singh*, A.I.R. 1980 S.C. 15; *State of Punjab v. Qaisar Jehan Begum*, A.I.R. 1963 S.C. 1604; *Madan Lal v. State of U.P.*, A.I.R. 1975 S.C. 2085.

In *V. Jagannadha Rao v. State of A.P.*, A.I.R. 2002 S.C. 77, it was held that the Court cannot reframe the legislation for the very good reason that it has no power to legislate.

In *Union of India v. Rajiv Kumar*, (2003)6 S.C.C. 516, it was held that it is a well settled principle that the Court cannot read anything into a statutory provision or rewrite a provision which is plain and unambiguous.

HISTORY OF LEGISLATION

The march of Legislative evolution of the subject can be traced from Madras Endowments and Escheats Regulation of 1817, repealed by Act XX of 1863, passing through Madras Hindu Religious Endowments Act, 1927, Madras Hindu Religious and Charitable Endowments Act, 1951 and the enactment of 1951 was repealed by Section 118 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. (Tamil Nadu Act 22 of 1959). This enactment had received the assent of the President on 19-11-1959 and published in Gazette on 2-12-1959. Act 22 of 1959 is an Act to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Tamil Nadu.

In *Shanmuga Archagar v. Munuswami Naicker*, (1959)1 M.L.J. 144, it was held that the powers of a Magistrate under Section 87 (3) of the Madras Hindu Religious and Charitable Endowments Act, 1951, are very limited and he is in the position of an executing Court and cannot go behind the order or certificate issued by the Commissioner and he has no power to entertain any objection to the validity, legality, or correctness of the order or to the jurisdiction of the authority issuing it.

See *In re Tiruvengada Mudaliar* Cr.P.C 740 of 1957; *Kunnayakka v. Narayanappa*, (1946)2 M.L.J.111; *Dandarah v. Venkataramana Dikshitulu* (1953)2 M.L.J. 550; *Narasimhacharyulu v. Kotayya*, (1952)2 M.L.J.217; *Chidambaram Chettiar v. State*, (1958)1 M.L.J.314 : 1958 M.L.J.(CrI.)325; *Pubbiri v. Govinda Mudaliar*, (1957)2 M.L.J. 617/1957 M.L.J. (CrI.) 864 ; *Dhanalaxmi In re* (1958)1 M.L.J.312 : (1958) M.L.J.(CrI.)322.

In *Radha Krishna Chettiar v. Commissioner H.R. and C.E.*, (1960) 1 M.L.J. 494, the Division Bench had explained Religious Charity and Religious Endowment.

In *Ganapathi Pandaram v. Collector of Coimbatore*, (1960)1 M.L.J.241, the nature of proceedings before Collector under Section 35 of Madras Hindu Religious and Charitable Endowments Act, 1951 had been dealt with.

It is well settled that where there are more trustees than one, all would be entitled to act jointly, they would be in the position of joint trustees and form a corporate body, *Commissioner H.R. and C.E. v. Sethurama Pillai*, (1960)1 M.L.J.157.

See *Deokinandan v. Muralidhar* (1957) S.C.J. 75 : (1957)1 M.L.J. (S.C.) 28.

In *Kothandapani Mudaliar v. Area Committee*, (1960)1 M.L.J. 176, the ambit of Sections 39 and 41 of Madras Hindu Religious and Charitable Endowments Act, 1951 was dealt with.

THE ¹[TAMIL NADU] HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT, 1959 [¹(TAMIL NADU) ACT 22 OF 1959]²

[Amended by Acts XII of 1961; XL of 1961; XVI of 1965; XXXI of 1965; XXIII of 1967; II of 1971; XXIX of 1972; XXII of 1973; V of 1974; XXVI of 1974; XXVII of 1974; XXVIII of 1974; XLVI of 1974; L of 1974; VI of 1975; Presidents Act XXIV of 1976; XLII of 1978; XLVIII of 1983; II of 1987; XLVI of 1991; XXXVIII of 1992; XVIII of 1993; XIX of 1993; XXXIX of 1994; XXV of 1995; XXXVIII of 1995; XXVIII of 1996; XXXIX of 1996; XXXVII of 1998; XXXVIII of 1998; LII of 1999; L of 2002; X of 2003; XXV of 2003; XXVIII of 2003]

[Received the assent of the President on the 19th November, 1959. First published in the Fort St. George Gazette on the 2nd December, 1959, (Agrahayana) 11, 1881]

An Act to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the ³[State of Tamil Nadu];

WHEREAS it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the ³[State of Tamil Nadu];

BE it enacted in the Tenth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent, application and commencement.—

- (1) This Act may be called the ¹[TAMIL NADU] HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT, 1959.
- (2) It extends to the whole of the ³[State of Tamil Nadu].
- (3) It applies to all Hindu public religious institutions and Endowments ⁴[including] the Incorporated Dewaswoms and Unincorporated Dewaswoms.

1. These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. For the Statement of Objects and Reasons, See Fort St. George Gazette Extraordinary, dated the 13th April 1959, Part IV-A, page 213. This Act as amended by Sub-section (2) of Section 11 of the Tamil Nadu (Added Territories) Extension of Laws Act, 1962 (Tamil Nadu Act 14 of 1962), was extended to the added territories by the said section of the said Act repealing the corresponding law in force in those territories.

3. This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaption of Laws Order, 1969, as amended by the Tamil Nadu Adaption of Laws (Second Amendment) Order, 1969.

4. This word was substituted for the word "except" by Section 2 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

Explanation.—In this Sub-section, Hindu public religious institutions and endowments do not include Jain religious institutions and endowments.

- (4) (a) The provisions of this Act except the provisions of—
- (i) Sub-section (4) of Section 92, in so far as that Sub-section relates to Consultative Committees and Sub-committees thereof, and
 - (ii) Clause (xxi) (b) of Sub-section (2) of Section 116 shall come into force on such date as the Government may, by notification, appoint, and different dates may be appointed for different areas and for different provisions of this Act.
- (b) The provisions of Sub-section (4) of Section 92 in so far as that Sub-section relates to Consultative Committees and Sub-committees thereof and of Clause (xxi) (b) of Sub-section (2) of Section 116 shall be deemed to have come into force on the 28th November, 1958.

NOTES

Sub-section (2)

Section 1 (2) of the Act says that the Act extends to the whole of the State of Tamil Nadu, the expression “Tamil Nadu” was substituted to Madras by Tamil Nadu Adaptation of Laws Order, 1969, as amended by its second Amendment.

Sub-section (3)

Sub-section (3) of Sec.1 of the Act specifies that it applies to all Hindu Public Religious Institutions and Endowments including the incorporated Dewaswoms and unincorporated Dewaswoms. Explanation says that in this Sub-section, Hindu Public Religious Institutions and Endowments do not include Jain religious institutions and endowments.

Dedication Complete or Partial

Dedication of property may either be complete or partial, when such dedication is complete, a public trust is created in contradistinction to a partial dedication which would only create a charity. A dedication for public purposes and for the benefit of the general public would involve complete cessation of ownership on the part of the founder and vesting of the property for a religious object. *Kuldip Chand v. A. G. to Govt of H.P.*, A.I.R. 2003 S.C. 1685; (2003)5 S.C.C. 46.

Rites and Rituals

Suits relating to rites and rituals in a temple are not of civil nature. However right to worship is a civil right which can be agitated in a Civil Court. *Muniandi Kone v. Sri Ramanatha Sethupathi*, (1982)1 M.L.J. 20.

See *Srinivasachariar v. Thatha Desika Thathachariar*, (1970)83 L.W.407; *Kadirvelu Chetty v. Nanjundaiyar*, (1916)2 L.W.512; *Subbaraya Mudaliar v. Venkatachariar*, (1905) I.L.R. 28 Mad. 23; *Sri Sunna Ramanuja Jeer v. Sri Ranga Ramanuja Jeer* (1962)1 S.C.J 17; *Ugam Singh v. Kesrimal*, (1971)1 M.L.J.539; *Gounders of Ulangathur*

Village v. Udayars of Ulangathur village, (1939)1 M.L.J.199.

Absence of Evidence Regarding Dedication

In the absence of evidence regarding dedication of temple to the public, the mere fact that patta stands in the name of the deity does not in any way detract from the temple being a private temple.

Mayaperumal v. Azhagappa Nadar (died), (1984)2 M.L.J. 422.

Thanumalyaperumal Mudaliar v. Commissioner H.R. and C.E. (1975)2 M.L.J. 310.

Relinquishment of Hereditary Trusteeship in favour of others in exclusion of the legal heirs

In *Nanjappa Chettiar v. Kuppuswamy Chettiar*, (1986)2 M.L.J. 464, it was held that release or relinquishment by a person in office of hereditary trusteeship would have no legal consequence since succession as of right is available.

Private Trust and Framing of Scheme

See *Gopal Lal v. Purna*, A.I.R. 1922 P.C.253; *Upendranath v. Nilmony*, A.I.R. 1957 Cal.342; *Narayanaswamy v. Balasundaram*; *Rabindra v. Chandi Charan*.

Deemed Appointment

In *Swami Nellaippar Sri Kanthimathi Amman Devasthanam v. Sri Navaneetha Krishnaswami Temple*, (1961)2 M.L.J. 576, it was held that the order of the Commissioner framing a scheme for a temple and appointing an Executive Officer under Sec.5 of Madras Act (11 of 1927), will be deemed to have been made under Section 58 of 1951 Act, by the appropriate authority by virtue of Section 103 of the said Act.

Kattalai

In *Vaithilinga Pandara Sannadhi v. Somasundara Mudaliar* (1892) I.L.R. 17 Mad. 199, it was held that in ordinary parlance the term Kattalai as applied to temple endowments signifies a special endowment for certain specific services or religious charity in the temple.

See *Ramanathan Chettiar v. Balayee Ammal*, (1928)27 L.W. 33. *Gnana Sambanda v. Vaithilinga Mudaliar*, (1922)18 L.W. 247.

Dharmakartha

In *Srinivasachariar v. Evalappa Mudaliar*, (1922)43 M.L.J. 536 : I.L.R. 45 Mad. 565, their Lordships of the Privy Council observed:

“The term Dharmakartha is in truth the legal equivalent to trustee. The position of Dharmakartha is not that of a shebait of a religious institution or of the Head of a Mutt. These functionaries have a much higher right with larger powers of disposal and administration and they have a personal interest of a beneficial character”.

Manager, Administration of Property

In *Ramanathan Chetti v. Murugappa Chetti*, (1906)16 M.L.J. 265: I.L.R. 29 Mad. 283, it was held by Their Lordships of the Privy Council that the manager of a temple is an administrator of the property attached to it and as regards that property he is in the position of

a trustee and as regards the services in the temple and the duties appertaining to it, it would be rather in the position of a holder of office or dignity.

Notification under 1927 Act

In *Sri La Sri Subramania Desika Gnana Sambanda Pandara Sannathi, Hereditary Trustee of the Rajan Kattalai Sri Thyagaraja Swami Koil, Tiruvarur v. State of Madras*, (1962)2 M.L.J. 67, the notification of 1937 made under 1927 Act, to be deemed to be one under Madras Hindu Religious and Charitable Endowments Act, 1951.

Hereditary trustee be put on notice

Where a temple is being managed by hereditary trustee while appointing Executive Officer to temple, hereditary trustee to be put on notice and be heard. *Commissioner H.R. and C.E. v. Jothiramalingam*, (1986)2 M.L.J. 334.

Framing a Scheme

In *Rajeevalochanar v. Ramachar*, (1987)2 M.L.J. 190, it was held that at best it can be said that under Sec.63, the Joint Commissioner/Deputy Commissioner has powers to make an allocation between religious and secular purposes but that does not mean the jurisdiction of Civil Court in framing a scheme is excluded.

Forced Sale

In *Sadagopa Ramanuja Jeer v. Sri Koil Kandadai Vathula Annan Sri Rengachari Swamigal*, (1974)2 M.L.J. 377, it was held that Section 41 of the Act prohibits a voluntary transfer of Inam land by exchange, gift, sale or mortgage and any lease for a term exceeding five years. The restrictions will not apply to the case of a forced sale in the case of the property of a religious or charitable institution brought to sale in Court auction by a decree holder.

Nature of Temple

The principles relating to public or private nature of temple had been discussed at length by the Division Bench in *Lakshmi Venkatramana Rao v. Commissioner H.R. and C.E.* (1972)2 M.L.J. 93.

Delegation

In *Velayudhan v. A.C.H.R. and C.E.* (1971)2 M.L.J. 333, it was held that an Assistant Commissioner holding the powers of the Commissioner by virtue of the delegation can certainly take action against an Executive Officer with regard to the lapses on the part of the Officer committed at a time when that Officer was serving under a particular Assistant Commissioner though at the time of taking action, the Executive Officer may happen to be serving in another division.

Rival claimants and celebration of annual festival

In *Rangayya Goundar (died) by LRS v. Karuppa Naicker*, (1971)1 M.L.J. 358, it was held where both the plaintiffs and defendants claim that they are entitled to be trustees of the temple and claim to have exercised their right hereditarily, the substantial dispute between the parties is as to which of them are the persons entitled to be on management and the dispute centres around as to which of the rival claimants is entitled to celebrate the annual festival and such dispute cannot fall within the ambit of Sec.63 and as such the bar under Section 108 would not apply.

Suit for rendition of accounts

In *Santhanagopala Chettiar v. Seetharama Chettiar*, (1968)2 M.L.J. 41, it was held that a civil suit for rendition of accounts against the trustee of a temple appointed by the members of a community is not barred by any of the provisions of the Act.

Rendition of Accounts

Rendition of Accounts by Ex-trustee to present trustee - as to what period ex-trustee should be made liable to Accounts.

Irrespective of any question of negligence or wilful default, no trustee can get a discharge unless there is proof of dishonesty and malversation. In cases of rendition of Accounts by an ex-trustee to a present trustee, the question that has to be considered is as to what period such ex-trustee shall be made liable to render accounts and this largely depends upon the facts of the case. The High Court fixed the period of Accounting at 12 years. (A.I.R. 1967 S.C. 781).

Scheme framed by former board

In *Samba Murthy Gurukkal v. State of Madras*, (1968)1 M.L.J. 184, Scheme framed by the former Board and effect thereof under 1951 Act and 1959 Act had been discussed.

Scheme framed by board

In *Venkataramani v. Madras H.R. & C.E.* (1967)1 M.L.J. 40, it was held that it is now well settled that office of hereditary trusteeship is property which can descend to the heirs of such trustees and any Scheme framed by the Board which does not make provision for the management of temple by hereditary trustee, cannot be binding on such trustee.

Refusal to Resume Inam

An order refusing to resume the Inam just as an order resuming the Inam, will be an order of the Collector under Section 35(2)(a) of 1951 Act and consequently the suit is maintainable under Section 35(2)(d)(11) of the Act.

Jeeyar Ayyah v. The Idol of Sri Ranganathaswami Devasthanam, Srirangam, (1970)1 M.L.J. 99.

Interest of Endowment

In *Navaneetham v. Commissioner H.R. and C.E.* (1963)2 M.L.J. 474, the Division Bench held that in the case of framing of a scheme, interest of the endowment is the necessary requirement.

Hindu Endowments

See *Hindu R.E. Board v. Veeraragavacharulu*, A.I.R. 1937 Mad.750; *Parmanand v. Nihal Chand*, A.I.R. 1938 P.C.195; *Sundhar v. Manindra*, I.L.R.(1940) 2 Cal.285; *Bhoopathy Nath v. Ram Lal*, I.L.R. 37 Cal. 128; *Narasimhaswamy v. Venkatalingam*, A.I.R. 1927 Mad. 636; *SNP Nadar v. T.P.T Charity*, A.I.R. 1971 Mad. 253; *Dasaratharami Reddi v. Subba Rao*, 1957 S.C.R.1122; *Champa Bibi v. Panchiram*, A.I.R. 1963 Cal.551; *Upendranath v. Ananth Chandra*, I.L.R.(1951)1 Cal. 665; *K.P.N. Mullah v. State of West Bengal*, (1974)4 S.C.C. 696; *Phundalal v. Arya Prathinidhi Sabha*, A.I.R 1933 All 793; *Chandi Charan Mitra v. Hari Bala Dass*, 46 Cal.951; *Upendra Lal v. Hemachandra*, 25

Cal. 405; *Banky Lal v. Pyare Lal*, ILR 53 All.710; *Veluswamy Goundan v. Dandapani*, (1946)1 M.L.J.354; *State of Madras v. S.S.M. Paripalana Sangam*, A.I.R. 1962 Mad. 48; *Gopalan v. Commissioner, H.R. and C.E.* (1972)2 S.C.C.329; *H.R.E. Board Madras v. VND Ammal*, A.I.R. 1954 Mad. 482; *Commissioner H.R.E Board v. Vinayakar A.T. Sabha*, A.I.R. 1953 Mad. 407; *Guru Estate v. IT Commissioner*, A.I.R. 1959 Orissa 53; *Commissioner v. Administrator General*, A.I.R. 1953 Cal. 329 IT; *Ramaswami v. Ayyaswami*, A.I.R. 1960 Mad.467; *Gopu Kulandaivelu v. Swami Royar*, I.L.R.28 Mad.517; *Ramayya v. Satyanarayanamurthi*, A.I.R. 1936 Mad 495; *Amareswara Rao v. State of A.P.*, (1973)2 An.W.R.66; *Shanmuga Pillai v. Shanmugam Pillai*, (1973)2 S.C.C 312; *Rajabathar Mudaliar v. Vadivelu Mudaliar*, (1970)1 S.C.C 12; *Manohar Ganesh v. Lakshmi Ram*, I.L.R.12 Bom. 247; *Jamnabai v. Vallabhdas*, ILR 14 Bom 1; *Mariyappa v. Puttaramayya*, A.I.R. 1958 Mys. 93; *Saraswati Ammal v. Raja Gopal Ammal*, A.I.R. 1953 S.C. 49; *Venkata Krishna v. Sub-Collector*, A.I.R. 1969 S.C. 563; *Narsing Charan v. Radhakant*, I.L.R.1950 Cut. 374; *Krishnaswami Pillai v. Kothandarama Naicken*, 27 M.L.J. 582; *Mahadeva Ayyar v. Sankara Subramanya Ayyar*, (1911)2 MWN 382; *Kalanka Devi Sansthan v. MRT, Nagpur*, (1969)2 S.C.C. 616; *Official Trustee of W.B. v. CIT*, (1974)3 S.C.C. 616; *Yogendra Nath v. CIT*, (1969)1 S.C.C. 555; *DAV College v. Sarvada Nand Anglo Sanskrit Higher Secondary School*, A.I.R. 1972 Punjab 245; *Pramatha Nath v. Pradhuymna Kumar*, A.I.R. 1925 P.C. 139; *Gokulnathji v. Nathji Bhogi Lal*, A.I.R. 1953 All.552; *Rama Brahma Chatterjee v. Kedarnath Banerjee*, A.I.R. 1923 Cal. 60; *Udyapurna v. Udyanidhi*, 27 Mad. 435; *Babaji Rao v. Laxman Das*, I.L.R.28 Bom. 215; *Gopal Sreedhar v. Shasheebushan*, A.I.R. 1938 Cal. 109; *Durga Takurani v. Chintamani*, A.I.R. 1982 Orissa 158; *Manathunaitha Desikar v. Sundaralingam*, A.I.R. 1971 Mad.1; *Sri Iswar v. Kandhan Bala*, A.I.R. 1977 Cal.473; *Damodardas v. Lakhan Das*, 37 I.A.147; *Ramraghava Reddy v. Seshu Reddy*, A.I.R. 1967 S.C. 436; *Jagdishchandra v. Sri Iswar Braja*, A.I.R. 1981 Cal. 259; *Tarit Bhushan v. Sridhar Saligran*, A.I.R. 1942 Cal. 99.

Archakas

See *Annaiah v. Ammakka* I.L.R. 41 Mad. 886. *Suryanarayanacharyulu v. Seshamma*, A.I.R. 1950 Mad.103; *Seshammal v. State of Tamil Nadu*, (1972)2 S.C.C 11; *Amrutheswara Pandithar v. Murugappa Chettiar*, 27 I.C. 886; *Narayana v. Ranga*, 15 Mad. 183. *Seshagiri Ayyar v. Ranga Bhattar*, I.L.R.35 Mad. 631. *Kalimata Thakurani v. Jibandhau*, A.I.R. 1962 S.C. 1329. *Raj Kali Kaur v. Ram Rattan Pandey*, A.I.R. 1955 S.C. 493. *Ramanujacharyulu v. Pandurangacharyulu*, A.I.R. 1957 A.P.272. *Mancharam v. Pran Shankar*, I.L.R. 6 Bom 298; *Kamalathamamma v. Krishna Pillai*, 20 M.L.J. 781; *Kandasami Thambiran v. Vaghesam Pillai*, A.I.R. 1941 Mad. 822. *Gowinda Swami Pillai v. Dakshinamoorthy*, I.L.R.35 Mad.92; *Singaravelu v. Chokkalinga*, 46 Mad.527; *Raghavachari v. Tirumalai Asari*, I.L.R.26 Mad.113; *Gnana Sambanda v. Velu*, I.L.R. 23 Mad.271; *Papayya v. Ramanna*, I.L.R.7 Mad. 85.

Worshippers and their Rights

See *Deokinandan v. Murali Dhar*, A.I.R. 1957 S.C. 133; *Gopala Moopnar v. Subramanya Ayyar*, 27 M.L.J. 253; *Vidya Purna Theertha Swamy v. Vidya Nidhi* 27 Mad.

435; *Narahari v. BN Temple Committee*, A.I.R. 1952 S.C. 245; *Mana Gobinda Panda v. Sachidananda Swami*, A.I.R. 1953 Orissa 151; *Gulab Chand v. Shri Balaji*, A.I.R. 1959 Bom 252; *Hukumchand v. Maharaj Bahadur*, A.I.R. 1933 P.C. 193; *Sinha Rammayya v. Ranga Rammayya*, A.I.R. 1961 S.C. 1720; *Venkataramana Devaru v. State of Mysore*, A.I.R. 1958 S.C. 255; *Anandrar v. Shankar*, 7 Bom.323; *Thiruvengkada Ramayya v. Venkatacharyalu*, A.I.R. 1947 P.C. 53; *Dayalal v. Pyar Chand*, A.I.R. 1972 Raj. 149; *Ugam Singh v. Kesrimal*, (1970)3 S.C.C. 831; *Prasama Deb v. Bengal Duras Bank*, A.I.R. 1936 Cal.744; *Narahari Sastri v. Badri Narayana Temple*, A.I.R. 1952 S.C. 245; *Seshayyengar v. Seshayyengar*, 2 Mad. 143; *Velayudha Gounder v. Ponnuswami Udayar*, A.I.R. 1945 Mad., 234; *Mukaremdas v. Chhagen Kesari*, A.I.R. 1959 Bom.491; *Chidambara v. Nallasiva*, 33 M.L.J. 357; *Arunachalam v. Vellappa*, 28 M.L.J. 410; *Appu Pattar v. Bhagabathi*, 21 M.L.J. 588; *Doorhanath v. Ramchunder*, I.L.R.2 Cal.341 (P.C.); *Panch Kari v. Amodelal*, 41 C.W.N. 1349; *Shashi Kumari Devi v. Direndra Kishore*, A.I.R. 1941 Cal.298; *Manika Narshimhachari v. Ramsubbier*, (1970)1 M.L.J. 337; *Gopamma v. Ramaswami*, A.I.R. 1944 Mad. 416.

Presumption that temple is a public one

In *Lakshmiammal v. Ramalinga Chettiar* (1992)2 M.L.J. 93. It was held that it may be noted that in South India, excepting Malabar, it is well established now by Court decisions that the presumption is that temple is a public one and who ever claims the temple to be a private one he must have to prove it.

Act XXII of 1959 and Indian Trusts Act, 1882

See *D.C. H.R. and C.E. v. Rama Iyengar*, (1992)1 M.L.J. 47

Conditions for Religious Denomination

In *Assistant Commissioner, H.R. and C.E. v. Peria Nadar*, (1993)1 M.L.J.499, conditions for religious denomination were explained.

***Suo motu* reversional powers by Commissioner H.R. and C.E.**

Ponnuswami v. D.C. H.R. and C.E. (1994)1 M.L.J. 155.

Female as priest of temple

Female is not disqualified to be appointed as priest of temple.

Meyyappa Velar v. Tamil Nadu Temple Administration Board, (1995)1 M.L.J. 435.

Denominational temple and Order 1, Rule 8 CPC

Suit for declaration that temple is a denominational temple of Keelatheru Yadhavas not filed in representative capacity and hence relief cannot be granted. *Ramiah Kumar v. Commissioner H.R. and C.E.*, (1995)1 M.L.J. 309.

Public trust for performance of Charities in temple-suit would lie

Lankaram v. Sir Sundaraja Devasthanam (1996)1 M.L.J. 208.

Feeding of poor by descendents of Saint

Semalai Gounder v. Commissioner H.R. and C.E. (1996)1 M.L.J. 245 .

Appeal and question of limitation

Commissioner H.R. & C.E. v. Paliah, (1996)1 M.L.J. 206.

Non-Linear descendent of Archaka

See *Vaidyanatha Gurukkal v. Commissioner H.R. and C.E.* (1996)1 M.L.J. 203.

Arulmigu Angalamman Temple

In *Appusamy v. Sundararajan*, (1997)1 M.L.J. 218, it was held that Arulmigu Angalamman Temple is not a denominational temple of 24 Manai Telugu Chettiar Community.

Sections 5 and 103 of 1951 Act

While dealing with Sections 5 and 103 of 1951 Act, the Division Bench in *Lakshmikumara Thathachariar v. Commissioner H.R. & C.E.*, (1997)2 M.L.J. 642, held that the scheme prior to commencement of the Act, shall be deemed to be the scheme under 1951 Act.

Notice Relating to Order of Surcharge

In *Sethurathinammal v. D.C. H.R. & C.E.* (1996)2 M.L.J. 385, it was held that a notice under Section 33 (3) relating to order of surcharge cannot be issued on the ground that investing savings of the temple were made in other than a Co-operative Bank contrary to the instructions of the department.

Institution not Presided over by a person

In *Commissioner H.R. and C.E. v. Sri. Annakavadi Samadhi Madam*, (1998)2 M.L.J. 244, the Division Bench held that where an institution is not presided over by a person and there was no line of succession to office and not regulated by usage, it was held to be not a religious institution.

Section 70 of the Act and Sec. 80, CPC

In a suit under Sec. 70 (1) of the Act notice under Sec. 80 CPC is not necessary, *Palaniswamy Pillai v. Commissioner H.R. and C.E.*, (1998)3 M.L.J. 50.

Co-trustees form collective trust

In *Mooka Velar v. Commissioner H.R. and C.E.*, (1998)3 M.L.J. 28, it was held that whatever may be the number of trustees, the office in joint capacity of one or more co-trustees form collective trust and hence they must execute duties of office in their joint capacity.

Appointment of fit person

Rajambal Ammal v. DC. H.R. & C.E. (1993)2 M.L.J. 31.

Person aged more than seventy years

In *Annasami v. Govindaraja Mudaliar*, (1995)1 M.L.J. 196, it was held that a person aged more than seventy years cannot be appointed as fit person.

2. Power to extend Act to Jain Religious Institutions and Endowments.—

- (1) **The Government may, by notification, extend to Jain public religious institutions and endowments, all or any of the provisions of this Act and of any rules made thereunder and thereupon, the provisions so extended shall apply to such institutions and endowments:**

Provided that before issuing such a notification, the Government shall publish in the **Fort St. George Gazette*, a notice of their intentions to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the institutions and endowments concerned to show cause against the issue of the notification and consider their objections, if any.

- (2) In this Act, wherever the word “Hindu” occurs, it shall, in respect of Jain public religious institutions and endowments to which the provisions of this Act have been extended under Sub-section (1) be construed to mean “Jain” unless the context otherwise requires.

Notes

Section 2 of the Act deals with power to extend Act to Jain Religious Institutions and Endowments.

Sec. 2 of Act XXIII of 1996 unconstitutional

In *Subramanian v. State of Tamil Nadu*, (1997)2 M.L.J. 151, the Division Bench held that Section 2 of Tamil Nadu Hindu Religious and Charitable Endowments (Special Provisions) Act, XXIII of 1996 is unconstitutional.

Persons interested in the institutions

Sub-section (1) says that the Government may by notification extend all or any of the provisions of the Act and Rules to Jain public religious institutions. *Proviso* specifies that before issuing such a notification, Government shall publish in Government Gazette, a notice of their intention to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the institutions and endowments to show cause against the issue of the notification and consider their objections if any.

In *Appanda Mudaliar v. State of Madras*, A.I.R. 1976 S.C. 2450, the Apex Court upheld the power to extend the provisions of the Act to Jain religious Institutions and Endowments, not denominational in character.

3. Power to extend Act to Charitable Endowments.—

- (1) Where the Government has reason to believe that any Hindu or Jain public charitable endowment is being mismanaged, they may direct the Commissioner to inquire, or to cause an inquiry to be made by any officer authorised by him in this behalf, into the affairs of such charitable endowment and to report to them whether, in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder.
- (2) The Commissioner or the officer authorized by him under Sub-section (1) shall, while making an inquiry under that Sub-section, have

* Now the Tamil Nadu Government Gazette.

all the powers of a Civil Court under the Code of Civil Procedure, 1908(Central Act V of 1908) for the purposes of enforcing the attendance of witnesses and compelling the production of books, accounts, documents, securities, cash and other properties belonging to or in the custody of such charitable endowments and shall follow the procedure applicable under the said Code in regard to recording of evidence and hearing of parties.

- (3) If, after considering the report of the Commissioner submitted under Sub-section (1), the Government are satisfied that such charitable endowment is being mismanaged and that, in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification, extend to such charitable endowment the said provisions, and thereupon, the provisions so extended shall apply to such charitable endowment as if it were a specific endowment:

Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification and consider their objections, if any.

- (4) Notwithstanding anything contained in this Section, the Government may, on application made by the trustee of any Hindu or Jain public charitable endowment, or where there are more trustees than one, then by those trustees or a majority of them and with the concurrence of the trustee or trustees making the application, extend, by notification, to such charitable endowment all or any of the provisions of this Act and of any rules made thereunder, and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment.

Notes

Section 3 of the Act deals with power to extend Act to Charitable Endowments. In *Nainar Pillai v. State of Madras*, A.I.R. 1958 Mad. 532, it was held that "mismanagement" may mean improper management or one not in conformity with law and interest of the institution. In *Kailasa Bhattar v. Secretary to Govt*, (1967)2 M.L.J. 610, it was held that officer making enquiry under Section 3 (2) of the Act should afford fullest opportunity before assuming control over the management.

Personal hearing

In *Sadasivam Pillai v. State of Tamil Nadu*, A.I.R. 1974 Mad. 131, it was held that

fields of Section 3 (2) and Section 3 (3) are distinct and under the first provision, a detailed enquiry giving full opportunity to the delinquent trustee has to be compulsorily held whereas under the other provision, while the delinquent trustee was to be given another chance to show cause, it was not meant to be another full-fledged enquiry necessitating personal hearing of the delinquent.

In *Venkatarama Iyer v. Government of Madras*, (1967)2 M.L.J 543, it was held that the language of Section 3 of the Act makes it clear that after the report of the inspector reaches the Government, the trustee will have an opportunity of showing cause but that opportunity will not be the same as an opportunity under Section 3 (2) of facing a full and detailed enquiry.

In *Shanmugham Pillai v. State of Madras*, W.P. No. 4518 of 1968 (Mad.), it was held that while Section 3 (2) contemplates a full-fledged enquiry, Section 3 (3) is limited in its scope and at the stage a personal hearing is not contemplated.

Refusal to participate

Where petitioner refused to participate or answer questions on the enquiry, such person cannot in writ petition contend that he was not given any opportunity to be heard.

Sadasivam Pillai v. State of Tamil Nadu, A.I.R. 1974 Mad. 131.

Feeding persons coming from North India during Brahmotsavam

In *Rajeevalochanachar v. Ramachar*, A.I.R. 1988 Mad. 227, where major part of income from the properties endowed is to be spent for feeding the persons coming from North India during Brahmotsavam and other days, it was held that it is not a religious endowment though it is a public charity.

Affording Opportunity

In *Somasundara Pandara Sannadhi v. State of Tamil Nadu*, (1977)2 M.L.J. 301, it was held that for a consideration of the objections to be legally effective, it should be done after hearing the objector and affording him an opportunity of proving the truth of his objections and where neither the Commissioner nor the Government called upon the petitioner to substantiate his objections by any oral representation or the production of evidence, it cannot be said that objections of petitioner were considered at all.

Notes

Statutory enquiry

In *Venkatarama Iyer v. Government of Madras*, (1967)1 M.L.J. 543, it was held that statutory enquiry specified under Sec.3 (2) of the Act to be conducted.

Refusal to Avail opportunity

In *Sadasivam Pillai v. State of Tamil Nadu*, (1973)1 M.L.J. 313, it was held that though opportunity was given, the aggrieved party having refused to avail the same cannot complain that he was not given opportunity.

4. Exemptions.—

¹[The Government may, by notification exempt whether prospectively or retrospectively] from the operation of any of the provisions of this Act or of any rules made thereunder, any religious institution or religious or Charitable Endowment or vary or cancel any such exemption:

Provided that before such exemption is varied or cancelled, the person affected shall be given a reasonable opportunity of showing cause against such variation or cancellation.

Notes

Section 4 of the Act deals with exemptions.

Reasonable opportunity

Proviso says that before such exemption is varied or cancelled, the person affected shall be given a reasonable opportunity of showing cause against such variation or cancellation.

See *Union of India v. Verma*, 1958 S.C.R. 499; *Khenchand v. Union of India*, A.I.R. 1958 S.C.300. *Union of India v. Goel*, A.I.R. 1964 S.C.364.

John v. State of T.N., A.I.R. 1955 S.C. 160; *Jagadish v. State of M.P.*, A.I.R. 1961 SC 1070; *Sumathi v. State of West Bengal*, A.I.R. 1971 S.C.752.

Bhatt v. Union of India, A.I.R. 1962 S.C.1344; *Champaklal v. Union of India*, A.I.R. 1964 S.C.1854.

5. Certain Acts not to apply to Hindu Religious Institutions and Endowments.

The following enactments shall cease to apply to Hindu religious institutions and endowments, namely :—

- (a) The ²[Tamil Nadu] Endowments and Escheats Regulations, 1817 ²[(Tamil Nadu] Regulation VII of 1817);
- (b) The Religious Endowments Act, 1863 (Central Act XX of 1863);
- (c) The Charitable Endowments Act, 1890 (Central Act VI of 1890);
- (d) The Charitable and Religious Trusts Act, 1920 (Central Act XIV of 1920); and
- (e) Section 92 and 93 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

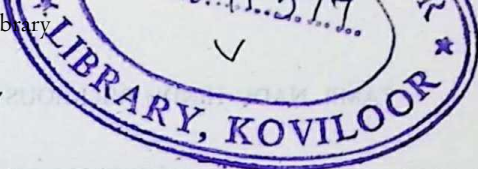
Notes

Section 5 of the Act specifies certain Acts not to apply to Hindu religious Institutions and Endowments. Hindu Religious Institutions and Endowments Sec. undernoted divisions.

Manohar Mukerjee v. Bhupendra Nath, A.I.R. 1932 Cal.791; *Kothandaraja Pillai*

1. These words were substituted for the "Government by notification, exempt" by Tamil Nadu Act 48 of 1983 w.e.f. 29.12.1983.

2. Substituted for the words "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.



v. Poramadesam Village Viswakula Street Swamy, Visnu Vinayakar Koil, A.I.R. 1981 Mad. 207; *Rajiva Lochanchar v. Ramachar*, A.I.R. 1988 Mad. 227; *AVGB Chettiar & Sons v. Palaniswami*, A.I.R. 2002 S.C. 2171; *Sardar Singh v. Kung Behari*, A.I.R. 1922 P.C. 261; *Anantha v. Nagamuthu*, (1882) 4 Mad. 200; *Sakuntala Ammal v. Pattammal*, (1978) 1 M.L.J. 296; *Vaidyanatha v. Swaminatha*, A.I.R. 1924 P.C. 221.

Composite endowment

In *Rajeevalochanchar v. Ramachar*, A.I.R. 1988 Mad. 227, it was held that a suit under Section 92, CPC for framing a scheme in relation to composite endowment, both religious and secular can be maintained since Section 5 is not attracted.

Public or Private endowments

Kuldipchand v. A.G. to Government of H.P., A.I.R. 2003 S.C. 1685; *Maharani Hemanta Kumari Devi v. Gowri Shanker Tewari*, A.I.R. 1941 P.C. 38 R 68 IA 53; *Radhakanta Deb v. Comm. H R E.*, (1971) 2 S.C.C. 226; *Bihar State Board Religious Trust v. Mahant Sir Biseshwar Das.*, (1971) 1 S.C.C. 574; *Mahant Ram Saroop Dasti v. Special officer*, A.I.R. 1959 S.C. 951; *Dasaratharami Reddy v. Subba Rao*, A.I.R. 1957 S.C. 797.

Religious denomination

In *Nellor Marthandam Vellalar v. Commissioner H.R. & C.E.*, (2003) 9 I.L.D. 667 (S.C.), it was held that the expression “religious denominations” must satisfy three requirements:

1. It must be a collection of individuals who have a system of belief or doctrine which they regard as conducive to their spiritual well being *i.e.* common faith;
2. In common organisation;
3. Designation of a distinctive name.

6. Definitions.—

In this Act, unless the context otherwise requires,—

‘[(1) “Additional Commissioner” means an Additional Commissioner appointed under Section 9;

(1-A) “Advisory Committee” means the Committee constituted by the Government under Sub-section (1) of Section 7.]

(2) ²[.....]

1. Clause 1 as inserted by Tamil Nadu Act 39 of 1996 was re-lettered as clause (1-A) and clause (1) was inserted by Tamil Nadu Act 50 of 2002.

2. The following Clause was omitted by Section 2 of Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968):—

“(2) “Area Committee” means in relation to any temple or specific endowment, the Area Committee constituted under this Act and exercising powers and discharging duties in respect of such temple or specific endowment:

Provided that in respect of the transferred territory, the powers and duties of the Area Committee shall, until the date of the constitution of the Kanyakumari Devaswom Board under Chapter 11 of the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950), be exercised and discharged by such authority or officer, as may be specified by the Government and after the date of the constitution of such Board, such Board shall be deemed to be the Area Committee.”

- (3) ***“Assistant Commissioner”*** means an Assistant Commissioner appointed under Section 9;
- (4) ***“Board”*** means the Board constituted under Section 10 of the ¹[Tamil Nadu] Hindu Religious Endowments Act, 1926 (¹[Tamil Nadu] Act II of 1927);
- (5) ***“Charitable endowments”*** means all property given or endowed for the benefit of, or used as of right by, the Hindu or the Jain community or any section thereof, for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of education, medical relief and public health or other objects of a like nature; and includes the institution concerned;
- (6) ***“Commissioner”*** means the Commissioner appointed under Section 9;
- (7) ***“Court”*** means—
- (i) in relation to a math or temple situated in the Presidency town, the ²[Chennai] City Civil Court;
 - (ii) in relation to a math or temple situated elsewhere, the Sub-ordinate Judge’s Court having jurisdiction over the area in which the math or temple is situated, or if there is no such Court, the District Court having such jurisdiction;
 - (iii) in relation to a specific endowment attached to a math or temple, the Court which could have jurisdiction as aforesaid in relation to the math or temple;
 - (iv) in relation to a specific endowment attached to two or more maths or temples, any Court which would have Jurisdiction as aforesaid in relation to either or any of such maths or temples;
- (8) ***“Deputy Commissioner”*** means a Deputy Commissioner appointed under Section 9;
- ³[(8-A) ***“District Committee”*** means the committee constituted by the Government under Section 7-A;]
- (9) ***“Executive officer”*** means a person who is appointed to exercise such powers and discharge such duties appertaining to the administration of a religious institution as are assigned to him by or under this Act or the rules made thereunder or by any scheme settled or deemed to have been settled under this Act;

1. Substituted for the words “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. Substituted for the word “Madras” by Tamil Nadu Act 28 of 1996.

3. This clause was substituted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act 1996. (Tamil Nadu Act 39 of 1996).

- (10) **“Government”** means the State Government;
- (11) **“Hereditary trustee”** means the trustee of a religious institution, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force;
- (12) **“incorporated Devaswoms”** means the Devaswoms mentioned in Schedule-I ¹[***];
- ²[(12-A) **“Inspector”** means an Inspector in the Hindu Religious and Charitable Endowments Administration Department;
- (12-B) **“Joint Commissioner”** means a Joint Commissioner appointed under Section 9;]
- (13) **“math”** means a Hindu religious institution with properties attached thereto and presided over by a person, the succession to whose office devolves in accordance with the direction of the founder of the institution or is regulated by usage and—
- (i) whose duty it is to engage himself in imparting religious instruction or rendering spiritual service; or
 - (ii) who exercises or claims to exercise spiritual head-ship over a body of disciples;
- and includes places of religious worship or instruction which are appurtenant to the institution;
- Explanation.**—Where the headquarters of a math are outside the State but the math has properties situated within the State, control shall be exercised over the math in accordance with the provisions of this Act, in so far as the properties of the math situated within the State are concerned;
- (14) **“non-hereditary trustee”** means a trustee who is not a hereditary trustee;
- (15) **“person having interest”** means—
- (a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;
 - (b) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat;
 - (c) in the case of a specific endowment, a person who is entitled to attend at or is in the habit of attending the performance of the

1. The expression “to the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950)” was omitted by Section 3 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

2. Clause 12-A as inserted by Tamil Nadu Act 18 of 1993, was re-lettered as Clause (12-B) and Clause (12-A) was inserted by Tamil Nadu Act 39 of 1996.

service of charity, or who is entitled to partake or is in the habit of partaking in the benefit of the charity;

¹[(15-A* * *)]

(16) “*religious charity*” means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a math or temple or not;

(17) “*religious endowment*” or “*endowment*” means all property belonging to or given or endowed for the support of maths or temples, or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts or property made as personal gifts to the archaka, service holder or other employee of a religious institution;

Explanation.— (1) Any inam granted to an archaka, service holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service holder or employee but shall be deemed to be a religious endowment.

Explanation.—(2) All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a “religious endowment” or “endowment” within the meaning of this definition, notwithstanding that, before or after the date of the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed:

Provided that this Explanation shall not be deemed to apply in respect of any property which vested in any person before the 30th September, 1951, by the operation of the law of limitation;

²[(18) “*religious institution*” means a math, temple or specific endowment and includes,—

(i) a samadhi or brindhavan; or

(ii) any other institution established or maintained for a religious purpose.

Explanation.— For the purpose of this clause—

1. This clause was inserted by Section 2 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1978 (Tamil Nadu Act 42 of 1978), subsequently omitted by Tamil Nadu Act 46 of 1991.

2. Clause (18) was substituted by Tamil Nadu Act 10 of 2003. Before substitution Clause (18) reads as follows:—“(18) “religious institution” means a math, temple or specific endowment”.

- (1) *“samadhi”* means a place where the mortal remains of a guru, sadhu or saint is interned and used as a place of public religious worship;
- (2) *“brindhavan”* means a place established or maintained in memory of a guru, sadhu or saint and used as a place of public religious worship, but does not include samadhi;]
- (19) *“specific endowment”* means any property or money endowed for the performance of any specific service or charity in a math or temple or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to Clause(17) ;

Explanation.(1)— Two or more endowments of the nature specified in this clause, the administration of which is vested in a common trustee, or which are managed under a common scheme settled or deemed to have been settled under this Act, shall be construed as a single specific endowment for the purposes of this Act;

Explanation. (2)—Where a specific endowment attached to a math or temple is situated partly within the State and partly outside the State, control shall be exercised in accordance with the provisions of this Act over the part of the specific endowment situated within the State;

- (20) *“temple”* means a place by whatever designation known, used as a place of public religious worship and dedicated to, or for the benefit of, or used as of right by, the Hindu community or of any section thereof, as a place of public religious worship;

Explanation — Where a temple situated outside the State has properties situated within the State, control shall be exercised over the temple in accordance with the provisions of this Act, in so far as the properties of the temple situated within the State are concerned;

¹[(20-A) * * *]

- (21) *“transferred territory”* means the Kanyakumari district and the Shencottah taluk of the Tirunelveli district;
- (22) *“trustee”* means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested and includes any person or body who or which is liable as if such person or body were a trustee;
- (23) *“unincorporated Dewaswoms”* means the Dewaswoms mentioned in Schedule II²[* * *]

1. Clause (20-A) was inserted by Tamil Nadu Act 46 of 1991, and subsequently omitted by Tamil Nadu Act 39 of 1996.

2. The expression “to the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1959)” was omitted by Section 3 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

Notes

Section 6 of the Act is an important provision, dealing with Definitions.

Additional Commissioner

This provision was introduced by Act 50 of 2002. Section 6 (1) of the Act defines Additional Commissioner as in this Act unless the context otherwise requires Additional Commissioner means an Additional Commissioner appointed under Section 9.

Assistant Commissioner

Section 6 (3) of the Act defines Assistant Commissioner as in this Act, unless the context otherwise requires, Assistant Commissioner means an Assistant Commissioner appointed under Section 9.

Board

Section 6 (4) of the Act defines Board as in this Act unless the context otherwise requires, Board means the Board constituted under Section 10 of the Tamil Nadu Hindu Religious Endowments Act, 1926. The words "Tamil Nadu" were substituted to the word "Madras" by Tamil Nadu Adaptation of Laws Order, 1969, as amended by second Amendment of the said order.

Charitable Endowments

Section 6 (5) of the Act defines Charitable Endowments. For charitable endowments, for charitable purposes, See *Morwe v. Scott*, A.I.R. 1918 Bom.88; *Sakuntala Ammal v. Pattammal*, (1978)1 M.L.J. 296; *Dwarakanath v. Burroda Prasad*, (1879)4 Cal.443; *Vaidyanath v. Swaminatha*, A.I.R. 1924 PC. 221; *Purmanundas v. Vinayak Rao*, (1883)9 I.A. 86 (P.C.); *Manoram v. Kalicharan*, (1901)31 Cal.166.

Lalita Prasad v. Brahmanand, A.I.R. 1953 All. 449; *Ramappa Naidu v. Lakshmenan Chetti*, A.I.R. 1928 Mad. 199; *Sheo Shankar v. Ram Shewak*, (1897)24 Cal.77; *Rajendra Lal v. Raj Koomari*, (1907)34 Cal.5; *Jamnabai v. Khumji*, (1890)14 Bom.1. *Khublal v. Ajodhya*, A.I.R. 1916 Cal. 792; *Gandhi Shankar v. Hemant Kumari*, A.I.R. 1936 All. 301; *Sivaraman Chetti v. Muthaiya Chetti*, (1888)16 & A 48 (P.C.); *Jetendranath v. Lokendranath*, A.I.R. 1916 Cal.295. *University of Bombay v. Municipal Commissioner Bombay*, (1892)16 Bom. 217; *Gordhaw Lal v. Ram Lal*, (1899)21 All. 200; *Padmammal v. Sarangapani Devasthanam Kumbakonam*, (1986)1 M.L.J. 1014; *Arur v. Comm of Income Tax*, A.I.R. 1946 Bom. 44.

Charitable Endowments

See *Ram Saroodasji v. Sahi*, A.I.R. 1959 S.C. 951; *Ramaswami v. Ayyaswami*, A.I.R. 1960 Mad. 467; *Indian Chamber of Commerce v. C.I.T.*, A.I.R. 1940 Mad. 920; *Gokul Doss v. Lakshmi Narasimulu*, A.I.R. 1940 Mad. 920; *A Viswanatha v. Rudra Veeranna*, A.I.R. 1953 Mad. 220; *Nagu v. Banu*, (1978)2 S.C.C. 591; *Controller E.D. v. Usha Kumar*, (1980) 1 S.C.315; *State of U.P. v. Bansi Dhar*, (1974)1 S.C.C. 446; *Drowa Sundaram v. Subramania*, A.I.R. 1945 Mad. 217; *H.R.E. Board v. Vinayak AT. Sabha*, A.I.R. 1953 Mad. 407; *State of Madras v. S.S.M Paripalana Sangam*, A.I.R. 1962 Mad. 48; *Trustees of Gordhandas v. Comm. of I.T.*, A.I.R. 1952 Bom.346; *ARC Ass. v. CIT*, (1971)3 S.C.C. 475; *Prabhu v. Kasum*, I.L.R. 1940 Bom. 761; *Panilker v. Damodharan*, A.I.R. 1976 Ker.86; *Venkatappa v.*

Hanumanthappa, (1970)1 My. L.J. 296; *In the matter of Charusila Dassi*, A.I.R. 1947 Cal. 148; *DAV College v. State of Punjab*, (1971)2 S.C.C. 269; *Narasingh Charan Mohapatra v. Radha Kanta Mohapatra*, A.I.R. 1951 132; *Purnachandra Rao v. Government of A.P.*, A.I.R. 1982 A.P. 141; *Padmammal v. Sarangapani Devasthanam*, (1986)1 M.L.J. 101.

In *Pachiammal (deceased) v. Sir Sarangapaniswami Devasthanam Kumbakonam*, (1986)1 M.L.J. 101, the expression Charitable Endowment in the Act has been explained.

Commissioner

Section 6 (6) of the Act defines Commissioner as in this Act, unless the context otherwise requires Commissioner means the Commissioner appointed under Section 9.

Court

Section 6 (7) of the Act defines Court. In Section 6 (7) (1) of the Act for "Madras" City Civil Court the word "Chennai" had been substituted which would read Chennai City Civil Court by Act 28 of 1996.

Deputy Commissioner

Section 6 (8) of the Act defines Deputy Commissioner as in this Act unless the context otherwise requires, Deputy Commissioner means a Deputy Commissioner appointed under Section 9.

Executive Officer

Section 6 (9) of the Act defines Executive Officer. *Kalia Pillai (died) and others. v. Kathayee Ammal Dharman (Charities) Thiruvannamalai, rep. by its E.O., the E.O. of Sri Arunachaleswarar Devasthanam Thiruvannamalai and others.* (2003)3 M.L.J.122.

Sections 6(5), 6(16), 6(17)

In 1925 a lady endowed certain properties under her Will providing for the stay of Hindu pilgrims and for feeding poor Hindu pilgrims who visited the Temple. The Will also provided for feeding Sivanadiars and poor people. She appointed a trustee who accepted the office. The Will prohibited sale of two items in any event, and permitted sale of two other items, if found necessary, with the consent of the Temple, the trustee alienated the trust properties and the Charities used for possession. Having regard to the provisions of the Will, the testator had created a Hindu Religious Charitable Endowment. The object of the trust is clear that the charity is associated with the temple and was created for the purpose of feeding the Hindu pilgrims. The charity created under the Will is a Hindu Charitable Endowment. The object of poor feeding has to be considered in the light of that object of the trust, namely, the provisions for stay of Hindu pilgrims and feeding them. The object of feeding is not an independent or separate object but is closely connected with the other objects also. The object of poor-feeding would not convert a Hindu religious charity into a general charity. The sales were made contrary to the terms of the deed and the express directions contained therein and would be invalid. Having regard to the conduct of the trustee the alienees cannot contend that by virtue of the *doctrine of desuede*, the trust had ceased to function.

Section 6(11)

There was no satisfactory proof that the family of the plaintiff was managing the temple as hereditary trustee. It was admitted in the pleadings that the temple was established by the villagers with the help of Raja of Ramnad for the people of the area. The evidence also disclosed that the temple was managed by another family a few years back. The plaintiff himself moved the department for appointing him as a trustee amounting to waiver of his claim to hereditary trusteeship. No declaration can be given that plaintiff is a hereditary trustee of the temple. *Thondiraj v. Chelliah Thevar*, (2002)1 M.L.J. 219.

Hereditary Trustee

Section 6(11) of the Act defines Hereditary trustee. In *Sreenivasachar v. Evalappa*, A.I.R. 1922 P.C. 325, it was held that the rights of Dharmakarta are not higher to that of Trustee.

In *K.A. Samajam v. Comm. of H.R. & C.E.* 1970 S.C.C. 359, it was held that a hereditary trustee has a right to manage the secular estate of the institution and at any rate such person cannot be equated with mathadhipathi or shebait. In *Sambundamurthi Mudaliar v. State of Madras*, (1970)1 S.C.C. 4, it was held that office of hereditary trustee is in the nature of property. See *Mana Thunainatha v. Sunderalingam*, A.I.R. 1971 Mad. 1. In *Thiagaraja v. Chokkappa*, (1974)2 S.C.C. 58, it was held that Hereditary trustees have certain privileges when compared to non-hereditary trustees.

See *Chockalingam poosari v. Ramaswami poosari*, A.I.R. 1977 Mad. 169.

In *Venkataraman v. Thangappa*, A.I.R. 1975 Mad. 119, it was held that normally in small temples, Hereditary trusteeship and pujariship would be in the same person. See *Muthuswami v. Ayyaswami*, (1964)2 M.L.J.560; *Babu Gurukkal v. Commissioner*, (1964) 1 M.L.J. 384.

In *Commissioner H.R. & C.E. v. Sangam*, A.I.R. 1976 Mad. 67, the aspect of succession to the office of Trusteeship had been dealt with at length.

Devolution of office and co-trusteeship had been discussed in *Ramaswami Aiyer v. Commissioner H.R. & C.E.*, (1975)2 M.L.J. 178.

In *Narayanan v. Commissioner H.R. & C.E.* (1989)2 M.L.J. 105, effect of founder of temple not providing succession to the office of the trustee had been dealt with.

In *Ranganatha Pillai v. Commissioner H.R. & C.E.* (1979)2 M.L.J. 23, the meaning of "Hereditary trustee" was explained.

Hereditary Trustees

See *Soundararaja Mudaliar v. D.C. H.R. & C.E.*, (1964)1 M.L.J. 236; *Muthurala Pillai v. Thyagarajaswami Pillai*, (1964)1 M.L.J. 230; *State of Madras v. Kushuaswari & another (Minors) rep. by mother*, (1964)1 M.L.J. 369; *Babu Gurukkal v. Commissioner H.R. & C.E.*, (1964)1 M.L.J.384.; *Muthuswamy Gurukal v. Aiyaswami Thevar*, (1964)2 M.L.J. 560.

Three kinds of hereditary trustees

In *Mumuswamy Chetty (died) and others v. Commissioner H.R. & C.E.* (1993)1

M.L.J. 183, it was held that there are three kinds of hereditary trustees as per the definition:

- (1) A trustee, succession to whose office devolves by hereditary right.
- (2) A trustee, succession to whose office is regulated by usage.
- (3) A trustee, succession to whose office is specifically provided for by the founder.

Incorporated Devaswoms

Section 6(12) of the Act defines incorporated Devaswoms as in this Act unless the context otherwise requires incorporated Devaswoms means the Devaswoms mentioned in Schedule I.

Joint Commissioner

Section 6(12B) of the Act defines Joint Commissioner as in this Act unless the context otherwise requires Joint Commissioner means a Joint Commissioner appointed under Sec. 9.

Math

Section 6(13) of the Act defines the expression "Math".

Math means "Hut of an ascetic or student, a monastic school or college" – Macdonells Sanskrit dictionary. In *Gyana Sambanda Pandaram v. Kandaswami*, I.L.R.10 Mad. 375, it was held that the term Math in its original and narrow sense signifies the residence of an ascetic, yati, a sanyasi.

In *Lakmindra Thirtha Swamiar v. Commissioner Hindu Religious Endowment Madras*, A.I.R. 1952 Mad. 613, it was observed that Maths are centres of theological learning especially for the study, practice, and propagation of the cult of each system of philosophy and to train and equip a line of competent teachers whose duty is to go forth into the land bearing the torch of learning and spreading its light.

The legal status of Math is that it is a juridical person.

Babajirao v. Laxmandas, (1904)28 Bom.215; *Chottalal v. Manohar*, (1900)26 IA 199; *Manohar v. Lakhmiran*, (1888)26 Bom. 247; *Laxmi Narayan v. State*, A.I.R. 1978 Pat. 330; *Sri Jaganath Maha Prabha v. Kumar Bimal Chandra Singh*, (1959)25 Cut. L.T. 345; *Satya Charan Sarkar v. Mahanta Rudrananda Gary*, A.I.R. 1953 Cal.716.

In *Sathanama Bharti v. Saravanabagi Ammal*, 18 Mad. 266, it was held that a Goswami is not a religious ascetic like a sanyasi or Tambiran but a married man who is considered to live a pious life affording religious instruction to those who seek it from him, performing religious charities and delivering lectures on religious subjects and on the duty of man to God and to his fellow creatures.

In *Vidya Varuthi Thirth v. Baluswami Iyer*, 44 Mad. 831, it was observed:

"In many cases in Southern India especially where the diffusion of Aryan Brahminism was essential - for barraging, the Dravidian people under the religious rule of the Hindu system, founded colleges, monasteries under the names of Maths under spiritual teachers of recognized sanctity".

In *Vidya Purna Thirthaswami v. Vidyaniidhi Thirthaswami*, 27 Mad. 435, which explaining the objects of Maths, it was held that there can be no doubt that institutions of the

class under consideration were established as centres of Theological learning and in order to provide a line of competent teachers with reference to the established Hindu creeds of the Country.

In *Sammantha Pandara v. Sellappa Chetty* 2 Mad. 175, it was held:

“A preceptor of religious doctrine gathers around him a number of disciples whom he initiates into the particular mysteries of the order and instructs in its religious tenets”.

Administration and Management of Maths

See *Sitaram Das v. H.R.E. Board*, A.I.R. 1937 Mad. 106.

Gownda v. Ramchandran, A.I.R. 1925 Cal. 1107; *Arunachalam v. Venkatachalapathi*, A.I.R. 1919 P.C. 62; *Babajirao v. Laxmandas*, (1904)28 Bom. 215.

Section 6(3) Explanation says that where the head-quarters of a Math are outside the State but the Math has properties situate within the State, control shall be exercised over the Math in accordance with the provisions of the Act, in so far as the properties of the Math situate within the State are concerned.

For definition of Math See *Holiness sri-lal-sri Ambalavana Pandara Sannathi Avergal v. State of Tamil Nadu*, A.I.R. 1986 Mad. 72.

Religious Endowment

Section 6(17) of the Act defines Religious Endowment *Ramanathan Chettiar v. Palaniappa Chettiar*, A.I.R. 1945 Mad. 473; *Adappa Setty v. Senivasa Setty*, I.L.R. 1955 Mys 383, *Mathevan Pillai v. Kasu Viswanatha Ninar*, 1951 Ker.L.T. 202; *Prafulla v. Jogendranath*, (1905)9 Cal.W.N. 528; *Ram Dhan v. Pragag Narain*, A.I.R. 1921 All.37; *Venugopala v. Krishnaswamy*, A.I.R. 1971 Mad. 262; *Ramalinga v. Siva Chidambara*, A.I.R. 1919 Mad. 809; *Gangi Reddi v. Jammi Reddi*, A.I.R. 1927 P.C. 80; *Janki Prasad v. Kuber Singh*, A.I.R. 1963 All. 187; *Maharu Dasi v. Pareshnath Thakur*, A.I.R. 1954 Orissa 198; *Dasaratha Rama Reddi v. Dr. Subba Rao*, (1957)2 M.L.J.175 (S.C.); *Deoki Nandan v. Muralidharan*, A.I.R. 1957 SC 133; *Pratap Singhji v. Deputy Charity Commissioner*, 1987 (Supp.) S.C.C. 714; *S.S. Pillai v. K.S. Pillai*, A.I.R. 1972 S.C.2069; *State of Madras v. S.S.M. Paripalana Sangham*, A.I.R. 1962 Mad. 48; *Sri Ram v. Chandeshwar Prasad*, A.I.R. 1952 Pat.438. *Chaturbhuj Singh v. Sarda Charan Guha*, A.I.R. 1933 Pat. 6; *Punna Sundari v. Benares Bank Ltd.*, A.I.R. 1938 Cal.81; *Chandicharan v. Dulai Chandra*, A.I.R. 1926 Cal. 1083; *Dasami v. Param*, A.I.R. 1929 All. 315; *Radhika Mohan v. Ameit Lal*, A.I.R. 1947 Cal. 301; *Nirmala Bala v. Balaichand*, A.I.R. 1965 S.C. 1874; *Show Gowindlalji v. State of Rajasthan*, A.I.R. 1963 S.C. 1638; *State of Bihar v. Bisheswardas*, A.I.R. 1971 S.C. 2057; *Narayan Bhawantrao Gosavi v. Gopal Vinayak Gosavi*, A.I.R. 1960 SC 100; *Narasimha v. Venkatalingam*, A.I.R. 1927 Mad. 636; *Ramalinga v. Sivachidambara*, A.I.R. 1919 Mad. 809; *Bhekdari Singh v. Ramchanderji*, A.I.R. 1931 Pat. 275; *Bipin v. Rudranarayan*, A.I.R. 1978 Orissa 203; *Somar Puri v. Shyam Narasim*, A.I.R. 1954 Pat.586; *Lalchand v. Vinayakrao*, A.I.R. 1953 Nag. 351; *Brojobala Dassi v. Shebrani of Sow. Saradia durgamata Thakuaits*, A.I.R. 1953 Cal. 283; *Bhupathinath v. Basant Kumari*, A.I.R. 1936 Cal. 556; *Gadu Gopal v. Pannalal*, A.I.R. 1978 S.C. 1329; *Karuppan Ambalam v. Jurumalai Ambalam*, A.I.R. 1962

Mad. 500; *Maharani Hemant Kumari v. Gauri Shankar Tewari*, A.I.R. 1941 P.C. 38; *Jadu Nath v. Thakur Sita Ramji*, A.I.R. 1917 P.C. 177; *Srinivasagam v. Chinnammal*, A.I.R. 1946 Mad. 266; *Narayanaswami Naidu v. Balasundaram*, A.I.R. 1953 Mad. 750; *Gulabchand v. Show Balaji Deity*, A.I.R. 1959 Bom.252; *Mallappa Virabhadrapa v. Vasudeorao*, A.I.R. 1956 Bom.628; *Shori Vallabharaya Swami v. Hanumancharyalu*, A.I.R. 1979 S.C.1147; *Dorai Kanni v. Natesa Pillai*, (1978)1 M.L.J. 296.

Religious Institution

Section 6 (18) of the Act defines religious institution and this definition was substituted by Act 10 of 2003. The definition is an inclusive one. In this Act, unless the context otherwise requires, religious institution means:

1. a math;
2. temple;
3. specific endowment and includes;
4. a samadhi or brindavan or;
5. any other institution established or maintained for a religious purpose.

In Explanation, expressions "samadhi" and "brindavan" were further explained:

In *Padmanabha v. Sri Vidya Vikasa Theertha*, (2002)3 M.L.J. 398, it was held that a mere fact that a temple is put adjacent to a samadhi and certain gurupoojas are performed, it will not be a religious institution in the absence of evidence of any endowment by the public to Sri Vyasaraya Math branches of Madhvas.

In *S.V. Sabha v. H.R. & C.E. Commissioner*, (1976)1 S.C.C. 292, the question of religious denomination was held to be a question of fact.

In *Muthaiah Asari v. Madasami Asari*, (1965)2 M.L.J. 220, religious institution and denominational character had been well explained.

In *Commissioner H.R. & C.E. v. Sri Annakavadi Samadhi Madam chatram Karuppur, Kumbakonam*, (1998)2 M.L.J. 244, it was held that if an institution is not presided over by any founder, etc., not having line of succession, not regulated by usage, no spiritual control over body of disciples, Trustees not rendering any spiritual service, such institution cannot be said to be a religious institution.

Specific endowment

Section 6(19) of the Act defines specific endowment. In *Raghavan Chettiar by LR v. Commissioner H.R. & C.E.*, (1996)1 M.L.J. 477, it was held that transfer of title to property is not necessary in creating a specific endowment and creation of charge on such property would be sufficient. Kattalai is a specific endowment.

Pandara Sannadhi v. State of Madras, (1962)2 M.L.J. 67; *Subramania Chettiar v. The Poovaloor Thirumoolanathaswami Sayarakshai Arthajama Kattalai by trustee*, (1965)1 M.L.J. 354.

Palani Velayutham Pillai v. Ramachandran, (2001)1 T.L.N.J. (S.C.) 57.

In *Laxmi Narasimhachari v. Agastheeswara Swami Varu*, A.I.R. 1960 S.C. 622 where the Inam Register specified the grant to continue so long as service was performed and the grantees, Dharmakarthas of kalyana utsavam, were performing such service, these would go to show that grant was specific endowment.

In *Sri Thiru Puranthakaswamy Devasthanam v. Sundaresa Mudaliar*, (1988)1 M.L.J. 26, definitions of religious endowment and specific endowment had been dealt with at length by Division Bench.

In *State of Madras v. Thuthukudi Kozhumbu Vyaparikalini Thuthukudi Sri Subramaniaswami Mahimai Paripalana Sangam*, (1961)2 M.L.J. 231, what is a specific endowment had been explained. See *Commissioner for Hindu Religious Endowment Board v. Vinayakar AT. Sabha*, (1952)1 M.L.J. 282.

Ramanathan Chettiar v. Palaniappa Chettiar, (1945)2 M.L.J. 164.

In *Sengoda Goundar (died) & others v. Commissioner, H.R. & C.E. Department & others*, (2003)2 M.L.J. 729, it was held in earlier suit that the suit temple was a public temple and hence the present claim that it is a Samadhi is barred by *res judicata*. The temple consists of several deities with platforms, several bells, 50 spears had been installed, a madapalli under the control of the Department, in the management of the hereditary trustees, tonsures were offered, regular offerings were made by the devotees and the offerings and hundial were subject to the control of audit. The instruction falls within the scope of temple as defined in Section 6(20) of the Act.

The Commissioner, H.R. & C.E. Board Madras and another v. T.S. Palanichamy and other, (2003)1 M.L.J. 414.

The State contended that the suit temple was a public temple on the basis of a presumption that there is such a presumption as regards temples in South India relying on the decision of the Privy Council in *Mundacheri Koman v. Achutan Nair*, 57 M.L.J. 788: L.R. 61 IA. 405: A.I.R. 1934 P.C.230, in which case concerning a temple in a Tarward in the Malabar areas by observing "In the greater part of the Madras Presidency where private temples are practically unknown, the presumption is the temples and their endowments form public charitable trusts. This was laid down by Seshagiri Ayyar, J, on an elaborate consideration of the whole subject in *Subramania Ayyar v. Lakshmana Goundan*, A.I.R. 1920 Mad. 42, which was affirmed by the Board in *Lakshmana Goundan v. Subramania Ayyar*, A.I.R.1924 P.C. 44".

But the learned Judge Seshagiri Ayyar after having arrived at the conclusion that it was a public temple in that case merely observed "in Southern India, excepting Malabar, there is private temple in which the outside public has established kattalais and in respect of which" The observations made by the Privy Council in A.I.R. 1934 P.C. 230 are erroneous. Each case has to be decided on the basis of evidence placed before the Court. The temple here was founded by the grand-father of the plaintiff, no endowment made by any outsider, no prakaram, no hundial, no offering by the public, improvement made by any outsider, and the management was always with the plaintiff. The suit temple is only a private temple.

Inspector/Fit person, H.R. & C.E., Arulmighu Sundaresa Gnanian Koil Dharapuram v. Amritammal and others, (2003)1 M.L.J. 435.

Though in the plaint the suit property is set out as a Samadhi, the relief asked for is for a declaration that the property is not a public temple, question falling squarely within Section 63 (a) of the Act. It is not incidental question but the only question. The question has to be decided by the authorities constituted under the Act. The suit is not maintainable.

Commissioner H.R. & C.E. (Admn.) Department v. Tirukoilur Adhinam Tiruppapuliur Gnaniar Madalayam by Srilasri Sivashanmugha Arukugha Meignana Sivachariar Swamigal, represented by the Power of Attorney Agent, A Somasundaram, (2003)1 M.L.J. 726.

The fact that in a Hindu temple members of the public are allowed to come and offer worship does not on that score make the temple a public temple. The tenets of Hindu religions do not turn away members of the public coming for worship. But the question is whether the members of the public come to worship as of right is crucial for determining whether such a temple is a private or public temple.

Temple

Section 6 (20) of the Act defines Temple. Explanation says that where a temple situate outside the State has properties situate within the State, control shall be exercised over the temple in accordance with the provisions of the Act in so far as the properties of the temple situate within the State are concerned.

Private or public temple

Gopalan v. Commissioner, H.R. & C.E., A.I.R. 1972 S.C. 1716; Sree Mahalaxmi v. Ranchhoddas, A.I.R. 1970 S.C. 2025; Hindu Public v. Rajadhanee Puja Samithi Samadhi A.I.R. 1999 S.C. 964. not treated as object of public religious worship for a long time would not evolve itself into a temple, *Sri Ramanasramam v. Commissioner H.R. & C.E., A.I.R. 1961 Mad. 265.*

Pran Prathishta of idol is not a *sine qua non* for public religious worship, *Devarajulu Nadar v. Commissioner H.R. & C.E., A.I.R. 1989 Mad. 60; Pichai v. Commissioner H.R. & C.E., A.I.R. 1971 Mad. 405.*

Temple built on poramboke can be taken as public temple.

Raja v. Seeru Thevar, A.I.R. 2001 S.C. 3389.

Gopuram and Mandapam may indicate that temple is public one.

Mahalinga Iyar v. State of Madras, A.I.R. 1980 S.C. 2036.

In *Har Hari-Shastiri v. Sri Badrinath Temple, A.I.R. 1952 SC 245*, it was held that ought to enter into a public temple is not an unregulated or unrestricted right. Sri Sai Samaj is not a temple within the meaning of Section 6(20) of the Act, *All India Sai Samaj v. Dy. Commissioner H.R. & C.E., (1967)2 M.L.J. 618.*

See *Anand Prasad v. State of A.P. A.I.R. 1963 SC 853; Pichai Ganapathy v. Commissioner H.R. & C.E. A.I.R. 2001, S.C. 2875.*

Commissioner H.R. & C.E. v. Tirukoilur Adheenam Tiruppapliur Srimath Gnaniar Madalayam, (2003)1 M.L.J. 376.

Commissioner H.R. & C.E. v. Sri Bhagawandas, A.I.R. 2001 Mad. 427.

Tests whether an endowment is of public or private nature:

See *Radhakrishna Deb v. Commissioner H.R. & C.E.* A.I.R. 1981 S.C. 798.

In *Nallar Marathandam Vellalar v. Commissioner, H.R. & C.E.*, (2003)10 S.C.C. 712, it was held that Vellalar community is not denominational and hence they have no inherent right to manage and administer the temple.

In *Arulmighu Devanatha Swamy Temple v. Neelamegha Battachariar*, (2001)9 S.C.C. 125, the scheme of administration was well discussed.

Tests relating to public and private Temples had been discussed by the Division Bench in *Ramaswami Jadaya Gounder v. Commissioner, H.R. & C.E.* (1963)2 M.L.J. 280.

Babu Bagwan v. Gir Har Swaroop, (1940)1 M.L.J.

Sitaramanujachari v. Vellamma, A.I.R. Mad. 462.

Narayan v. Hindu Religious Endowment Board, A.I.R. 1938 Mad. 209.

Madras Hindu Religious Endowment Board v. Dewan Ammal by Power of Attorney Agent, (1953)2 M.L.J. 688.

Koman Nair v. Achuthan Nair, (1934)67 M.L.J. 788.

It is now well settled that unlike the temples in Kerala, there is a presumption that temples in South India are public and the onus of proof is on the person asserting it to prove that it is a private temple.

Sri Shidambareswara Sivagami Ambigai Temple v. Commissioner H.R. & C.E. (1966)1 M.L.J. 109

In *Pichai v. Commissioner H.R. & C.E.* (1971)1 M.L.J. 166, the conditions to satisfy the definition of temple had been explained.

See *Ramaswami Servai v. Board of Commissioner H.R. & C.E.* I.L.R. 1950 Mad. 799; (1950)2 M.L.J. 411; *H.R.E Board v. Narasimhan*, (1939)1 M.L.J. 134; A.I.R. 1939 Mad. 134; *Venkataramana Murthi v. Sri Rama Mandiram*, (1964)2 A.I.R. WR 457; *Deoki Nandan v. Muralidhar*, 1957 S.C.J. 75; *Saraswati Ammal v. Rajagopala Ayyar*, 1953 S.C. J 714; *Poohari Faker Sadvarthy v. Commissioner, H.R. & C.E.*, A.I.R. 1963 S.C. 510; *Deoki Nandan v.* 1957 S.C.J. 75; *Saraswati Ammal v. Rajagopala Ayyar*, 1953 S.C.J. 714; *Poohari Faker Sadvarthy v. Commissioner H.R. & C.E.* A.I.R. 1963 S.C. 510; *Mahalaxmi v. Shah Ramachand Das*, A.I.R. 1970 S.C. 2025.

Though appearance of a temple is a relevant circumstance, it is by no means a decisive one. Once there is evidence to show that a temple is used as a public place of worship, the presumption in this part of the State is that it is a public temple. If a place is used as of right by the Hindu Community for public religious worship, it is a temple within the meaning of Sec. 6 (20) of the Act. *Logambal Ammal v. Commissioner H.R. & C.E.* (1972)2 M.L.J. 612; *Madras Hindu Religious Endowment Board v. Devarani Ammal*, A.I.R. 1954 Mad. 482. *Ramaswami v. Commissioner H.R. & C.E.*, A.I.R. 1964 Mad. 317; *Commissioner H.R. & C.E. v. Shama Rao*, A.I.R. 1934 P.C. 230; *Bhagwan Devi v. Gridhar Saroop*, A.I.R. 1940 P.C. 7, *Nalla Karuppan v. Commissioner H.R. & C.E.*, A.I.R. 1960 Mad. 99, *Pichai v. Commissioner H.R. & C.E.*, A.I.R. 1971 Mad. 405.

The Division Bench in *Kannan v. All India Sai Samaj* (1974)1 M.L.J. 174, held that Sai Mandir situate at Mylapore is not a place of public worship dedicated solely to the members of the Hindu Community and hence it is not a temple as defined in Section 6 (20) of the Act.

Sai Mandir is not a Hindu religious institution, *All India Sai Samaj v. D.C. H.R. & C.E.* (1967)2 M.L.J. 618.

Denominational temple also a public temple

In *Seeni Thevar v. Velayutha Raja* (1992)2 M.L.J. 530, it was held that denominational temples also are public temples falling within the definition of temple.

Performing Poojas to Vigneswara idol

Where the trust was created for performing poojas of Vigneswara idol and the rest of amount for feeding people from outside the village who stay in the choultry and subsequent document specifying the amount to be spent to other religious or charitable purposes, such endowment was held to be religious endowment or religious charity and hence Sec.92, C.P.C. is not applicable, *Palaniswamy Gounder v. Ponnuswamy Chettiar*, (1992)1 M.L.J. 109.

Temple not declared private under the Acts

Where temple was not declared as private temple under 1951 Act or 1959 Act, it would be a public temple and hence Executive Officer can be appointed.

Raghupathi Naicker v. Commissioner & Secretary to Govt. of Tamil Nadu, (1996) 1 M.L.J. 508.

Section of Hindu Community

In *Sreenivasa Chettiar v. Selvanambi*, (1994)1 M.L.J. 550, whose caste people perform worship, there is no good reason to hold that suit temple is a private one.

Thadhiaradhanai Services

In *Raghavalu Chettiar (died) L.R. v. Commissioner H.R. & C.E.* (1996)1 M.L.J. 477, it was held that charity performing thadhiaradhanai services in perumal temples would not amount to specific endowment.

Characteristics of temple

Where poojas, archanas and navarathiri festivals are conducted, such institutions would possess all characteristics of temple.

Natesa Achar v. Parasamaya Kolewnatha Madam, (1999)2 M.L.J. 585.

Trustee

Section 6(22) of the Act defines trustee.

See for Trustee: *Pattabhirama Reddi v. Balarama Reddi* (1944)2 M.L.J. 326; *Sri Mahalinga Tambiran v. Arul Nandi Tambiran*, A.I.R. 1974 S.C. 199; *Velan v. T.N. Ad. Board*, (1995)2 M.L.J. 435; *Muthuswami Gurukkul v. Ayyaswami Thevar*, (1964)2 M.L.J. 560; *Arulmigu Immudi Aghora SAV Mutt v. Sankara Subramanian*, A.I.R. 1990 Mad. 76; *Raja Kali Kaur v. Ram Rathan*, (1955)2 M.L.J. (S.C.) 49; *Seshammal v. State of Tamil Nadu* (1973) 58; *Babu Gurukkal v. Commissioner H.R & C.E.* (1964)1 M.L.J. 384 (S.C.).

In *Ramaswami Iyer v. Commissioner H.R. & C.E.*, (1975)2 M.L.J. 178, it was held that there is nothing in the definition of the word "trustee" which would deprive a body of persons of their right of trusteeship merely because that body is likely to fluctuate from time-to-time.

Unincorporated Dewaswoms

Section 6 (23) of the Act defines unincorporated Dewaswoms as in this Act, unless the context otherwise requires "unincorporated Dewaswoms" means the Dewaswoms mentioned in Schedule II.

***Bona fide* dispute as to title**

The earlier decision of High Court on the construction of trust deeds cannot be said to have established a real possibility of the suit property being covered by exemption notification and therefore outside the ken of the Rent controller. It is suffice to state that there is *prima facie* proof for the stand taken by appellants relating to creation of trust, the admitted inclusion of the suit property in those documents and unchallenged decision.

That suit property is part of religious endowment or religious charity within the meaning of the Endowments Act, on facts, the Apex Court held that there is *bona fide* dispute as to title and the Rent controller has no jurisdiction to bear and finally adjudicate upon the application filed by respondent before it, but however, this finding is limited to the issue of the Rent Controller's jurisdiction and shall not preclude the respondent from approaching a competent Civil Court for determination of issue finally.

A.V.G.P. Chettiar v. T. Palaniswamy Gounder, A.I.R. 2002 S.C. 2171 : (2002)5 S.C.C. 537: 2002 (4) Supreme 134.

Order challenged at belated stage

In *Sungaram Chetty Attendroloo v. State of Tamil Nadu*, A.I.R. 2001 S.C. 2161: (2001)5 S.C.C. 700, where a deed of settlement permitted religious and secular activities and in 1947 an order was made by Endowments Board that 50% of the income should form religious endowment and the said order was challenged in 1970, it was held that such challenge at a belated stage cannot be sustained.

Private temple may acquire character of public temple.

In *Teki Venkataratnam v. Dy. Commissioner, Endowments*, A.I.R. 2001 S.C. 2436: (2001)7 S.C.C. 106, it was held that due to various factors and developments, a private temple in course of time may acquire the nature of a public temple.

Choultry

In *State of Madras v. Mahadeva Iyer*, (1988)1 M.L.J. 128, it was held that choultry is not a Hindu Charitable Endowment and hence Act has no application.

Feeding a section of Community

Feeding a section of community is an object of charitable endowment.

Kailasa Bhattar v. Secretary, Government (1967)1 M.L.J. 610.

Dharmam in chavady of private house

In *Gomathi Ammal (died) v. Madasamy*, (1985)1 M.L.J. 360, it was held that dharmam in a chavady of private house in the absence of dedication would not be "religious charity".

Place creating sense of reverence

In *Durairajulu Naidu v. Commissioner H.R. & C.E.*, (1986)2 M.L.J. 390, it was held that a place creating sense of reverence in the belief that God resides there would be temple and presence of idol is not necessary.

Nattamaikars

In *D.C. H R & C E v. Sidhuvinyaga Mudaliar*, (1971)1 M.L.J. 422, it was held that Nattamaikars of Sengunthar community by usage would be hereditary trustees of Sri. Venugopalaswami and Sri Ramaswami Perumal temples at Madapuram.

Inam to Archaka

In *Narayanswami Desari v. Commissioner H.R. & C.E.*, (1971)2 M.L.J. 91, it was held that in the first explanation to Sec.6 (17) of the Act, it is made clear that any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee but shall be deemed to be a religious endowment.

Tests of Charitable and Hindu Charitable Endowment

In *Ponnuswamy Nadar v. State of Tamil Nadu*, (1985)2 M.L.J. 492, the tests to be applied whether a particular Charitable Endowment is Hindu Charitable Endowment or not had been discussed.

Denominational Temple

In *Assistant Commissioner, H.R. & C.E. v. Ellappa Mudaliar*, (1988)1 M.L.J. 8, while dealing with "denominational temple", it was held that Senguntha Mudaliar community of Tharamangalam is not a religious denomination.

Vedantha Sthapana Sabha, and Hereditary Trustee

In *Commissioner, Hindu Religious and Charitable Endowment (Admn.) Madras v. Vedantha Sthapana Sabha*, 2004 A.I.R. S.C.W. 3637, the Apex Court reversed in A.I.R. 1998 Mad. 76, held that (1975)2 M.L.J. 178, is not good law in view of A.I.R. 1971 S.C. 2363, where claim of Hereditary trustee regulated by succession, usage, scheme of succession by founder, was put forth and the suit temple is not confined to exclusive worship of members of Sabha or founder, but open to Hindu public at large who made liberal donations and no application was filed to characterise the temple as dedicated to or for the benefit of Hindu community or section thereof, such claim of Hereditary Trusteeship cannot be sustained.

Places of worship (Special Provisions) Act, 1991, Central Act.

Conversion of any public religious place of worship, which existed as on 15.8.1947 is barred by the Act. Special Act has an overriding effect over all other existing Acts. *Seth Srenikhhhar Kasturbhai v. Seth Chandulal Kasturchand*, A.I.R. 1997 Pat. 179; *Yusuf Ali Shaikh v. SPL A.O.*, A.I.R. 1994 Bom. 327;

Most Rev P. MA. Metropolitan v. Moran Mar Marthoma, A.I.R. 1995 S.C. 2001.

Sections 6 and 70 of the Act

In *Nanjappa Chettiar, (deceased) v. Kuppuswami Chettiar*, (1985)2 M.L.J. 154, it was held that persons who are entitled to succeed as hereditary trustees cannot be deprived of their rights by the predecessor's release or relinquishment.

¹[Chapter I-A - Omitted]

²[7. *Constitution of Advisory Committee.*—

- (1) The Government shall constitute, for the State of Tamil Nadu, a Committee called the Advisory Committee consisting of the following members, namely:—
 - (a) the Chief Minister, who shall be the Chairman, *ex-officio*;
 - (b) the Minister in-charge of the portfolio of Hindu Religious and Charitable Endowments who shall be the Vice-Chairman, *ex-officio*;
 - (c) the Secretary to Government in-charge of Hindu Religious and Charitable Endowments, who shall be the Member *ex-officio*;
 - (d) Such number of non-officials not exceeding eight persons professing Hindu religion, nominated by the Government, of whom one shall be a member of the Scheduled Castes or Scheduled Tribes;
 - (e) The Commissioner, who shall be the Member-Secretary, *ex-officio*.
- (2) The term of office of non-official members shall be three years and other matters relating to the Advisory Committee shall be such as may be prescribed.
- (3) The Government may, after giving a show-cause notice remove all or any of the non-official members of the Advisory Committee in the public interest.]

Notes

Section 7 of the Act deals with constitution of Advisory Committee.

Sub-section (3)

Sub-section (3) of Section 7 of the Act says that the Government may, after giving a show-cause notice, remove all or any of the non-official members of the Advisory committee in the public interest.

1. Chapter I-A and Sections 7 to 7-G and 7-H and 7-O were omitted by the Tamil Nadu Hindu Religious and Charitable Endowments Amendment Act, 1996 (Tamil Nadu Act 39 of 1996).

2. New Sections 7 and 7-A were inserted by The Tamil Nadu Hindu Religious and Charitable Endowments Amendment Act, 1996.

7-A. Constitution of District Committee.—

(1) In respect of all religious institutions (other than those religious institutions falling under Clause (iii) of Section 46) situated within the territorial jurisdiction of Revenue District, the Government shall constitute a committee called the District Committee consisting of not less than three and not more than five non-official members as may be nominated by the Government. Only persons who are qualified for appointment as trustees under this Act shall be nominated to the District Committee.

(2) The term of office of the members of the District Committee shall be three years and other matters relating to the said Committee shall be such as may be prescribed.

(3) The Government may, after giving a show-cause notice, remove all or any of the members of the District Committee in the public interest.

(4) The District Committee shall prepare, in such manner as may be prescribed, a panel of names of persons who are qualified for appointment as Trustees under this Act (including members of Scheduled Castes and Scheduled Tribes) and suitable for appointment as non-hereditary trustee or trustees, as the case may be, and shall send it to—

(i) the Joint or Deputy Commissioner, in respect of religious institutions falling under Clause (i) of Section 46;

(ii) the Commissioner, in respect of religious institutions falling under Clause (ii) of Section 46; and

(iii) the Assistant Commissioner, in respect of any religious institution which is not included in the list published under Section 46 and is not a religious institution notified or deemed to have been notified under Chapter VI of this Act.

(5) Notwithstanding anything contained in this Section, the District Committee shall have no jurisdiction to send any panel of names of persons under this Section in respect of any religious institution for which a scheme has been settled or deemed to have been settled under this Act by the High Court or any Court subordinate to the High Court.

Explanation.—For purposes of this Section and Section 7, “Scheduled Castes” and “Scheduled Tribes” shall have the same meaning assigned to them respectively in Clauses (24) and (25) of Article 366 of the Constitution.

Notes

Section 7A of the Act deals with constitution of District committee.

Sub-section (3)

Sub-section (3) of Section 7A of the Act says that the Government may, after giving a show-cause notice, remove all or any of the members of the District Committee in the public interest.

**District Committee shall have no Jurisdiction to send any panel of
names of persons**

Where in respect of any religious institution a scheme has been settled or deemed to have been settled under the Act by the High Court or any Court subordinate to High Court, the District Committee shall have no jurisdiction to send any panel of names of persons under this provision.

Explanation

Explanation says that for purposes of Section 7A and Section 7 of the Act “Scheduled Castes” and “Scheduled Tribes” shall have the same meaning assigned to them respectively in Clauses (24) and (25) of Article 366 of the Constitution.

Article 366 Clauses (24) and (25) of the Constitution read “Extract”.

Articles 341 and 342 of the Constitution read.

“Extract”

See *Virendra v. Union of India* A.I.R. 1992 All.147; *v Kishorilal v. Raja* A.I.R. 1972 S.C. 598; *Parsram v. Shivchand*, A.I.R. 1969 S.C. 59; *Abhoy Pada v. Sudhir*, A.I.R. 1967 S.C. 115; *Punit Roy v. Dinesh Chaudhary*, (2003)8 S.C.C.204; *Michael v. Venkataswaram*, A.I.R. 1952 Mad. 474; *Bhariyalal v. Hari Krishnan*. A.I.R. 1965 S.C. 155; *Ganpat v. Presiding Officer*, A.I.R. 1975 S.C. 42; *Arumugam v. Rajagopal*, A.I.R. 1976 S.C. 939; *Soosai v. Union of India*, A.I.R. 1986 S.C. 733; *Dippala v. Giri*, A.I.R. 1958 A.P. 724; *Raghunath v. Damodara*, A.I.R. 1978 S.C. 1820; *Bhia v. Anurudh*, A.I.R. 1971 S.C. 2533; *State of Kerala v. Thomas*, A.I.R 1976 S.C. 490; *Basavalingappa v. Munichinnappa*, A.I.R 1965 S.C. 1269; *Sirish v. State of Tripura*, A.I.R 1990 S.C. 91; *Dadaji v. Sukhdeo.*, A.I.R 1980 S.C. 150.

CHAPTER—II.

**¹[THE COMMISSIONER AND OTHER
CONTROLLING AUTHORITIES]**

²[8. Authorities under the Act.—

There shall be the following classes of authorities under this Act, namely:—

(a) the Commissioner;

³[(aa) Additional Commissioner;]

(b) Joint Commissioner;

(c) Deputy Commissioners; and

(d) Assistant Commissioners].

1. This original heading was substituted by the heading “AUTHORITIES UNDER THE ACT” by Tamil Nadu Act 46 of 1991, and subsequently this heading was restored by Tamil Nadu Act 39 of 1996.

2. Section 8 was substituted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1996 (Tamil Nadu Act 39 of 1996).

3. Clause (aa) was inserted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 2002 (Tamil Nadu Act 50 of 2002) which came into force on 7th July, 1997.

9. Government to appoint Commissioner, etc.—

(1) The Government shall appoint the Commissioner, ¹[the Additional Commissioner] and ²[such number of Joint, Deputy and Assistant Commissioners] as they may think fit.

(2) (a) Appointment to the post of Commissioner shall be—

(i) by transfer from among the members of the ³[Tamil Nadu] State Higher Judicial Service or of the ³[Tamil Nadu] State Judicial Service or of any other service; or

⁴[(ii) by promotion from Additional Commissioner]; or

(iii) by direct recruitment.

⁴[(aa) Appointment to the post of Additional Commissioner shall be by promotion from Joint Commissioner;

(aaa) Appointment to the post of Joint Commissioner shall be by promotion from Deputy Commissioner];

(b) appointment to the post of Deputy Commissioner shall be—

(i) by transfer from among the members of the ⁵[Tamil Nadu] State Judicial Service or of any other service; or

(ii) by promotion from Assistant Commissioners; or

(iii) by direct recruitment; or

(iv) by agreement or contract.

(c) ⁶[* * *]

10. Commissioner, etc., to be Hindus.—

The Commissioner, ⁷[the Additional Commissioner], ⁸[every Joint, Deputy or Assistant Commissioners] and every other officer or servant appointed to carry out the purposes of this Act, by whomsoever appointed, shall be a person professing the Hindu Religion and shall cease to hold office as such when he ceases to profess that religion.

1. Added by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 2002 (Tamil Nadu Act 50 of 2002), which is deemed to have come into force on 7th July, 1997.

2. Substituted for the words "such number of Deputy and Assistant Commissioners" by Tamil Nadu Act 18 of 1993.

3. Substituted for the word "Madras" by Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

4. Substituted by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 2002 (Tamil Nadu Act 50 of 2002) which deemed to have come into force on 7th July, 1997.

5. Substituted for the word "Madras" by Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

6. Omitted by Section 2 of Tamil Nadu Act 6 of 1975.

7. Added by Tamil Nadu Act 50 of 2002, which came into force on 7th July, 1997.

8. Substituted for the words "every Deputy or Assistant Commissioner" by Tamil Nadu Act 18 of 1993.

¹[11. Commissioner to be corporation sole.—

The Commissioner shall be a Corporation sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name].

12. Commissioner, etc., to be servants of Government.—

- (1) The Commissioner, ²[Additional Commissioner], ³[Joint Commissioner], Deputy Commissioners, Assistant Commissioners and other officers and servants including Executive Officers of religious institutions employed for the purposes of this Act shall be servants of the Government and their salaries, allowances, pensions and other remuneration shall be paid in the first instance out of the Consolidated Fund of the State. The ⁴[* * *] cost of auditing the accounts of religious institutions shall also be paid in the first instance out of the Consolidated Fund of the State.**
- (2) (a) The Commissioner shall, out of the ⁵[Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund], repay to the Government sums paid by the Government under Sub-section (1).**
- (b) The Commissioner shall recover from the religious institution concerned, the salaries, allowances, pensions and other remuneration paid to the Executive Officers of religious institutions and credit the amount so recovered to the fund mentioned in Clause (a).**
- (c) (i) For the purpose of pension or other remuneration payable to any Executive Officer serving immediately before the date of the commencement of this Act and retiring on or after that date, the Government may take into account the service of such officer before that date, subject to such conditions as may be prescribed;**
- (ii) The Commissioner may recover from the religious institution concerned also the portion of the pension or other remuneration attributable to the service of such Executive Officer as is mentioned in Sub-clause (i) before the date of the commencement of this Act.**

1. Section 11 was omitted by the Tamil Nadu Act 46 of 1991 and again inserted by Tamil Nadu Act 39 of 1996.

2. Inserted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act 50 of 2002 and deemed to have come into force on 7th July, 1997.

3. The expression "Joint Commissioners" was added by Tamil Nadu Act 18 of 1993.

4. The words and figures "costs, charges and expenses other than those referred to in Section 93 incurred by the Area Committees and the" were omitted by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

5. This expression was substituted for the expression "Madras Hindu Religious and Charitable Endowments Administration Fund" by paragraph 3 (1) of, and the Schedule to, the Tamil Nadu Adaptation of Laws Order, 1970.

13. Delegation to ¹[Additional Commissioner,] ²[Joint Commissioners or Deputy Commissioners].—

- (1) The Commissioner shall, with the previous approval of the Government, specify the area within which each ²[Joint Commissioner or Deputy Commissioner], if there is more than one, shall exercise the powers conferred and discharge the duties imposed by this Act or the rules made thereunder on a ²[Joint Commissioner or Deputy Commissioner] as such.
- (2) The Commissioner may delegate any of the powers conferred or duties imposed on him by this Act or the rules made thereunder [including the powers and duties of an Assistant Commissioner which may be exercised by the Commissioner under the *proviso* to Sub-section (2) of Section 14 but not including the powers and duties of the Commissioner under ³[Sections 21, 22, 46, 47, 59, 69, 72] or Sub-section (2) of Section 92, in respect of any area or any class or group of institutions in the State or any area therein to ¹[Additional Commissioner], or ²[Joint Commissioner or Deputy Commissioner], subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

⁴[13-A. Powers and duties of ⁵[Additional Commissioner and Joint Commissioner]. Subject to the administrative control of the Commissioner, ⁵[the Additional Commissioner, or the Joint Commissioner, as the case may be,] shall exercise such powers and discharge such duties of the Commissioner as may, from time-to-time, be determined by the Government, and any order passed or proceeding taken by the ⁵[Additional Commissioner or the Joint Commissioner, as the case may be,] in exercise of powers and discharge of such duties shall be deemed to be an order of the Commissioner for the purposes of this Act.]

Notes

Section 13 of the Act deals with delegation to Additional Commissioner, Joint Commissioners or Deputy Commissioners.

Sub-section (2)

In *Rama Rajar v. Deputy Commissioner, H.R. & C.E.* (1963)1 M.L.J. 225, it was held that Section 45 (1) of Madras Act XIX of 1951 corresponding to Section 13 (2) of Madras

1. Inserted by Tamil Nadu Act 50 of 2002, which came into force on the 7th July, 1997.

2. Substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

3. Substituted for the expression "21, 22, 69, 72" by Tamil Nadu Act 39 of 1996.

4. Section 13-A was inserted by Tamil Nadu Act 18 of 1993.

5. Substituted for the words "a Joint Commissioner" by Tamil Nadu Act 50 of 2002, which is deemed to have come into force on the 7th July, 1997.

Act XXII of 1959 provides for power to suspend, remove or dismiss trustee to the Deputy Commissioner in the case of any religious institution over which an Area committee has Jurisdiction and to the Commissioner in the case of any other religious institution. Delegation of power is permissible as can be seen from the scheme of the Act.

14. Territorial jurisdiction and powers and duties of Assistant Commissioners.—

- (1) The Commissioner shall, with the previous approval of the Government, divide the State into divisions, each of which shall be in the charge of an Assistant Commissioner.
- (2) An Assistant Commissioner shall exercise the powers conferred and discharge the duties imposed on him by this Act or the rules made thereunder in respect of his division:

Provided that the Commissioner may, by order in writing, declare that the exercise and discharge of all or any of such powers and duties shall be subject to such exceptions, limitations and conditions as may be specified in the order, and may himself exercise or discharge any power or duty so excepted.

¹[(2-A) Without prejudice to the provisions of Sub-section (2), an Assistant Commissioner shall exercise the powers conferred and discharge the duties imposed on him by this Act or the rules made thereunder in respect of—

- (i) all temples situated in his division other than temples included in the list published under Section 46,
- (ii) the specific endowments attached to such temples other than specific endowments included in the list published under Section 46, and
- (iii) the charitable endowments in his division to which the provisions of this Act have been extended under Section 3:

Provided that where a specific endowment is attached to two or more temples comprised within the jurisdiction of two or more Assistant Commissioners or where a charitable endowment to which the provisions of the Act have been extended under Section 3 consists of properties situated within the jurisdiction of two or more Assistant Commissioners, the Commissioner shall decide as to which of the Assistant Commissioners shall exercise the powers and discharge the duties in respect of such specific endowment or charitable endowment:

Provided further that where a specific endowment is attached partly to one or more temples included in the list published under Section 46 and partly to one or more temples not so included, only the Commissioner shall exercise the powers and discharge the duties in respect of such specific endowments.]

1. This Sub-section was substituted by the Tamil Nadu Act 39 of 1996.

(3) The Commissioner may delegate to an Assistant Commissioner any of the powers conferred or duties imposed on the Commissioner by this Act or the rules made thereunder (other than the powers and duties referred to in ¹[Sections 21, 22, 46, 47, 59, 69, 72] or Sub-section (2) of Section 92), in respect of the division of the Assistant Commissioner or of any institutions or any clause or group of institutions in that division, subject to such restrictions and control as the Government may, by general or special order lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

²[(4) The Inspector shall discharge such duties as may be assigned to him by the Commissioner, either by general or special order, under the Act or the rules made thereunder in respect of such religious institutions as may be prescribed].

³[15-20. * * *]

21. Powers of Commissioner to call for records and pass orders.—

(1) The Commissioner may call for and examine the record of ⁴[any Joint or Deputy or Assistant Commissioner,] ⁵[* * *] or of any trustee of a religious institution other than a Math or a specific endowment attached to a Math in respect of any proceeding under this Act ⁶[not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act] ⁷[or in respect of which an application for revision has been preferred under Section 21-A to the Joint Commissioner or Deputy Commissioner and is pending disposal by him to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein].

(2) If any such decision or order has been passed by ⁸[any Joint or Deputy or Assistant Commissioner], or by the trustee of any religious institution other than a Math or a specific endowment attached to a Math and

1. Substituted for the expression "21, 22, 69, 72" by Tamil Nadu Act 39 of 1996.

2. Sub-section (4) was added by Tamil Nadu Act 39 of 1996.

3. Sections 15 to 20 were omitted by Section 6 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

4. Substituted for the words "any Deputy or Assistant Commissioner" by Tamil Nadu Act 38 of 1995.

5. The words "of any Area Committee" were omitted by Section 7(i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

6. This expression was substituted for the expression "(not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act)" by Section 3 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1978 (Tamil Nadu Act 42 of 1978). Which was deemed to have come into force on the 14th August, 1978.

7. Inserted by Tamil Nadu Act 39 of 1996.

8. Substituted for the words "any Deputy or Assistant Commissioner" by Tamil Nadu Act 38 of 1995.

other than one included in the list published under Section 46, and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders, accordingly.

- (3) (a) If any such decision or order has been passed ¹[* * *] by the trustee of any religious institution included in the list published under Section 46, the Commissioner may, if he thinks fit, remit the matter together with his observations in regard thereto, ²[to the trustee], for reconsideration of the decision or order and report to the Commissioner within a time to be specified by him in this behalf.
- (b) On receipt of, and after considering, such report, it shall be open to the Commissioner to modify, annul or reverse the decision or order as revised after such reconsideration, as the case may be.
- (c) If the report is not received by the Commissioner within the time specified or such further time as may be granted by him, the Commissioner may modify, annul or reverse the decision or order of ³[the trustee].
- (4) (a) The Commissioner may call for and examine the record of any trustee of a Math or a specific endowment attached to a Math in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or appeal to a Court is provided by this Act) to satisfy himself as to the legality of any decision or order passed therein.
- (b) If any such decision or order has been passed illegally by the trustee of a Math or a specific endowment attached to a Math and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.
- (5) The Commissioner shall not pass any order prejudicial to any party under Sub-section (2), or Clause (b) or Clause (c) of Sub-section (3) or under Clause (b) of Sub-section (4), without hearing him or giving him a reasonable opportunity of being heard.
- (6) The Commissioner may stay the execution of any decision or order of the nature referred to in Sub-section (1) or Clause (a) of Sub-section

1. The words "by any Area Committee or" were omitted by Section 7 (ii)(a) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

2. These words were substituted for the words "to the committee or trustee, as the case may be" by Tamil Nadu Act 39 of 1996.

3. These words were substituted for the words "the Area Committee or trustee, as the case may be" by Section 7 (ii) (b) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

(4), pending the exercise of his powers under Sub-section (2) or Sub-section (3) or under Clause (b) of Sub-section (4) in respect thereof.

- (7) Every application to the Commissioner for the exercise of his powers under this section shall be preferred within three months from the date on which the order or proceeding to which the application relates was communicated to the applicant.

¹[21-A. *Powers of Joint or Deputy Commissioner to call for records and pass order.*—

- (1) The Joint or Deputy Commissioner may call for and examine the record of any Assistant Commissioner in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein.
- (2) If, any such decision or order has been passed by any Assistant Commissioner and it appears to the Joint or Deputy Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.
- (3) The Joint or Deputy Commissioner shall not pass any order prejudicial to any party under Sub-section (2) without hearing him or giving him a reasonable opportunity of being heard.
- (4) The Joint or Deputy Commissioner may stay the execution of any decision or order of the nature referred to in Sub-section (1), pending the exercise of his powers under Sub-section (2) in respect thereof.
- (5) Every application to the Joint or Deputy Commissioner for the exercise of his powers under this section shall be preferred within three months from the date on which the decision or order to which the application relates was communicated to the applicant.]

Notes

Section 21 of the Act deals with powers of Commissioner to call for records and pass orders.

Sub-section (5)

The Commissioner shall not pass any order prejudicial to any party under Sub-section (2) or Clause (b) or Clause (c) of Sub-section (3) or under Clause (b) of Sub-section (4) without hearing him or giving him a reasonable opportunity of being heard.

Sub-section (6)

The Commissioner may stay the execution of any decision or order of the nature referred to in Sub-section (1) or Clause (a) of Sub-section (4), pending the exercise of his

1. Section 21-A as originally inserted by Tamil Nadu Act 42 of 1978 was subsequently omitted by Section 10 of Tamil Nadu Act 41 of 1991 and re-inserted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1996 (Tamil Nadu Act 39 of 1996.)

powers under Sub-section (2) or Sub-section (3) or Clause (b) of Sub-section (4) in respect thereof.

Powers under general delegation

In *Muthukrishnan v. Commissioner H.R. & C.E.*, (1968)1 M.L.J. 376, it was held that if the Commissioner exercises the power which the statute has conferred on him, clearly he cannot revise his own order under Section 21 but where Deputy Commissioner exercises Power on the strength of general delegation from the Commissioner, the Commissioner as the supervising authority can rely on Section 21 or correct erroneous or illegal orders passed by the Deputy Commissioner exercising in a special case powers under a general delegation.

22. Other powers of Commissioner.—

(1) The Commissioner shall have power at any stage—

- (a) to transfer any proceeding pending before ¹[a Joint or a Deputy or an Assistant Commissioner] to his own file and dispose it of himself, or
- (b) to transfer it to another a¹[Joint or Deputy or an Assistant Commissioner] for disposal.

(2) If the Commissioner is satisfied that ¹[a Joint or a Deputy or an Assistant Commissioner] has failed to exercise any power or discharge any duty which he ought to have exercised or discharged, the Commissioner may himself exercise such power or discharge such duty.

²[(3) * * * * *]

(4) Notwithstanding anything contained in this Act, where the office of ¹[a Joint or a Deputy or an Assistant Commissioner] is vacant, the Commissioner may, until the vacancy is filled—

- (a) himself exercise the powers conferred and discharge the duties imposed by this Act or the rules made thereunder on the ¹[Joint or Deputy or Assistant Commissioner]; or
- (b) authorise another ¹[Joint or Deputy or Assistant Commissioner] to exercise the said powers and discharge the said duties.

(5) Any party aggrieved by an order of the Commissioner under Sub-section (1)(a), (2), ³[*] or (4)(a), not being an order against which a suit or an appeal to a Court is provided in this Act, may appeal to the Government within three months from the date of receipt of the order by him:

Provided that the Government shall not pass any order prejudicial to

1. Substituted for the words "a Deputy or an Assistant Commissioner" by Tamil Nadu Act 38 of 1995.

2. Sub-section (3) was omitted by Tamil Nadu Act 19 of 1968.

3. The brackets and figure "(3)" were omitted by Section 8(ii) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

any party unless he has had a reasonable opportunity of making his representations.

CHAPTER—III

RELIGIOUS INSTITUTIONS – GENERAL PROVISIONS

23. Powers and duties of ¹[the Commissioner] in respect of ²[temples and religious endowments].—

Subject to the provisions of this Act, the administration of ³[all temples (including specific endowments attached thereto) and all religious endowments] shall be subject to the general superintendence and control of ¹[the Commissioner] and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that ⁴[such temples and endowments] are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist:

⁵[Provided that ¹[the Commissioner] shall not pass any order prejudicial to any temple or endowment unless the trustees concerned had a reasonable opportunity of making their representations.

Notes

Chapter III of the Act deals with Religious institutions and General provisions. Section 23 of the Act deals with powers and duties of the Commissioner in respect of temples and religious endowments.

Proviso

Proviso says that the Commissioner shall not pass any order prejudicial to any temple or endowment unless the trustees concerned had a reasonable opportunity of making their representations.

Section 23 of the Act and Math

In *His Holiness sri-la-sri Ambalavana Pandara Sannadhi Avargal v. State of Tamil Nadu*, A.I.R 1983 Mad. 72, it was held that of course Section 23 of the Act gives vast powers to the Commissioner in respect of the administration of all temples and all religious endowments and he has a general superintendence and control. But it is well known that Section 23 does not apply to Maths for which a separate chapter, viz, Chapter IV is provided in the Act.

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words 'the Temple Administration Board' which in turn were substituted for the words 'the Commissioner' by Tamil Nadu Act 46 of 1991.

2. These words were substituted for the words "religious endowments" by Section 2(i) of the Tamil Nadu Hindu religious and Charitable Endowments (Fourth Amendment) Act, 1974 (Tamil Nadu Act 28 of 1974)

3. These words were substituted for the words "all religious endowments" by Section 2(ii) *ibid*.

4. These words were substituted for the words "such endowments" by Section 2(ii), *ibid*.

5. This *proviso* was added by Section 2 (h), *ibid*.

Lawful orders issued by the Commissioner

In *Arunachalam v. D.C. H.R. & C.E.*, (1967)1 M.L.J. 428, it was held that on reading of Sections 23 and 27 of the Act, it is clear that trustee is bound to obey all lawful orders issued by Commissioner under the Act which would include orders which are necessary to ensure that endowments are properly administrated.

¹[24. *Power to enter religious institutions.*—

- (1) ²[The Commissioner, or an Additional] or a Joint or a Deputy or an Assistant Commissioner or any officer authorised by the Commissioner or ³[Additional Commissioner or Joint Commissioner or Deputy Commissioner or] the Assistant Commissioner in his behalf shall have power to enter the premises of any place of worship for the purpose of exercising any power conferred or discharging any duty imposed by this Act, or the rules made thereunder.
- (2) If any such officer is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.
- (3) Before entering the *sanctum sanctorum* or *pooja gruha* or any other portion held specially sacred within the premises of a religious institution or place of worship, the person authorised by or under Sub-section (1) or the police officer referred to in Sub-section (2), shall give reasonable notice to the trustee or head of the institution and shall have due regard to the religious practice or usage of the institution.
- (4) Nothing in this Section shall be deemed to authorise any person who is not a Hindu to enter the premises or place referred to in this Section or any part thereof.
- (5) If any question arises, whether the religious practice or usage of the institution prohibits entry into the *sanctum sanctorum* or *pooja gruha* or any other portion held specially sacred within the premises of a religious institution, or place of worship, by the person or police officer mentioned in Sub-section (3), the question shall be referred for the decision of the Commissioner. Before giving any decision on any such question, the Commissioner may make such enquiry as he deems fit.
- (6) Any person aggrieved by the decision of the Commissioner under Sub-section (5) may, within one month from the date of the decision, appeal to the Government:

1. Substituted by Tamil Nadu Act 39 of 1996.

2. Substituted for the words "the Commissioner" by Tamil Nadu Act 50 of 2002, which deemed to have come into force on the 7th July, 1997.

3. Substituted for the expression "Joint or Deputy Commissioner" by *ibid.*

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

Notes

Section 24 of the Act was substituted by Act 39 of 1996 and certain words were substituted by Act 50 of 2002. This provision deals with power to enter religious institutions.

Discharging any duty imposed by this Act

The officers specified or authorized in Sub-section (1) shall have power to enter the premises of any place of worship for the purpose of exercising any power conferred or discharging any duty imposed by this Act or the rules made thereunder.

On a written requisition from such officer

Sub-section (2) says that if an officer specified in Sub-section (1) is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction on a written requisition from such officer direct any police officer not below the rank of Sub-inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.

Shall give reasonable notice to the trustee or head of the institution.

Sub-section (3) says that the person authorised by or under Sub-section (1) or the police officer referred to in Sub-section (2) before entering the *Sanctum Sanctorum* or *pooja gruha* or any other portion held specially sacred within the premises of a religious institution or place of worship, shall give reasonable notice to the trustee or head of the institution and shall have due regard to the religious practice or usage of the institution.

Who is not a Hindu to enter the premises or place referred to in this Section or any part thereof.

Sub-section (4) says that nothing in this Section shall be deemed to authorise any person who is not a Hindu to enter the premises or place referred to in this Section or any part thereof.

Who is a Hindu

See *Abraham v. Abraham*, (1863) 9 MIA 199 P.C.; *Morarji v. Administrator General*, A.I.R. 1928 Mad. 1279; *Yait v. Maung Chit*, A.I.R. 1922 P.C.197; *Vidyaguari v. Narandas*, A.I.R. 1928 Bom.74; *Chhotay Lall v. Chunoo Lall*, (1878) 6 I.A.15 (P.C.); *Shyam Sundar v. Shankar Deo*, A.I.R. 1960 Mys 27; *Nalunkha v. Rajani*, A.I.R. 1931 Cal.741; *Ishwari Prashad v. Rai Hari Prashad*, A.I.R. 1927 Pat.145; *Rani Bhagwan Koer v. Bose*, (1903)30, A 249 (P.C.); *Sheo Singh v. Dakho*, (1878) 5 IA 87 (P.C.); *Sheodas Narain v. Kusum Kumari*, A.I.R. 1923 (P.C.) 21; *Ganesh Matho v. Shib Charan Matho*, A.I.R. 1931 Pat.305; *Rajah Chattar Singh v. Dewan Roshan Singh*, A.I.R. 1946 Nag. 277; *Seethalaxmi Ammal v. Ponnuswami Nadar*, ILR (1966)2 Mad. 373; *Chunka v. Bhabani*, A.I.R. 1946 Pat. 218; *Yaguapurush Dasi v. Maldas*, A.I.R. 1966 S.C. 1119; *Muthuswami v. Masilamani*, (1909) 33 Mad. 342; *Somasekara v. Sugutur*, A.I.R. 1936 P.C.18. *Sundararaja v. Dalibai*, (1905) 29 Bom. 316; *Ambabai v. Govind*, (1899) 23 Bom. 257; *Peruamai v. Krishnaswami*,

(1893) 16 Mad. 182; *Gattappa v. Eramma*, A.I.R. 1927 Mad. 228; *Dhanray v. Sunibai*, A.I.R. 1925 (P.C.) 118; *Hurachand v. Saipal*, A.I.R. 1939 Bom.377; *Venkataramayya v. Seshayya*, A.I.R. 1942 Mad. 193., *Ramayya v. Elizabeth*, A.I.R. 1937 Mad. 192.

The question shall be referred for the decision of the Commissioner

Sub-section (5) says where any question whether the religious practice or usage of the institution prohibits entry into the *sanctum sanctorum* or *pooja gruha* or sacred premises of religious institution or place of worship by person or police officer mentioned in Sub-section (3), the question shall be referred for the decision of the Commissioner and before giving any decision on such question, the Commissioner may make such enquiry as he deems fit.

Sub-section (6)

An aggrieved person by the decision of the Commissioner under Sub-section (5), may appeal to the Government within one month from the date of the decision, *proviso* says that Government shall not pass any order prejudicial to any party unless he was given a reasonable opportunity of making his representation.

25. ¹[*] Commissioner, etc., to observe appropriate forms and ceremonies.—**

²[The Commissioner] ³[an Additional Commissioner], ⁴[a Joint Commissioner], ³[a Deputy Commissioner] ⁵[or an Assistant Commissioner], and every other person exercising powers of superintendence or control under this Act, shall so far as may be, observe forms and ceremonies appropriate to the religious institution in respect of which such powers are exercised and in the case of a Math, act in conformity with the usages of the Math in his dealing with the head of the Math.

26. Qualification of trustees.—

(1) A person shall be disqualified for being appointed as, and for being, a trustee of any religious institution—

(a) if he does not profess the Hindu religion;

⁶[(aa) if he is not a citizen of India];

(b) except in the case of a hereditary trustee, if he is less than twenty five and more than seventy years of age;

(c) if he is an undischarged insolvent;

1. The words "Chairman, Member" were added by Tamil Nadu Act 46 of 1991 and subsequently omitted by Tamil Nadu Act 39 of 1996.

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Chairman or any other member of the Temple Administration Board or of the District Committee, the Commissioner" which in turn were substituted for the words "The Commissioner" by Tamil Nadu Act 46 of 1991.

3. Added by Tamil Nadu Act 50 of 2002, which came into force on 7th July, 1997.

4. Added by Tamil Nadu Act 18 of 1993.

5. Substituted for the words "an Assistant Commissioner or a member of an Area Committee" by Tamil Nadu Act 19 of 1968.

6. Inserted by Tamil Nadu Act 30 of 1994.

- (d) if he is of unsound mind or is suffering from mental defect or infirmity which would render him unfit to perform the functions and discharge the duties of a trustee or is suffering from leprosy or any other loathsome disease;
 - (e) if he is interested in a subsisting lease of any property of, or contract made with or any work being done for the religious institution or is in arrears of any kind due by him to such religious institution or endowment;
 - (f) if he is employed as a paid legal practitioner on behalf of or against the religious institution;
¹[(ff) if he has been removed or dismissed from service under the Central Government or any State Government or any local authority];
 - (g) if he has been sentenced by a Criminal Court for an offence involving moral delinquency, such sentence not having been reversed or the offence pardoned;
 - (h) if he has acted adverse to the interest of the institution.
- (2) If a trustee—
- (a) becomes subject to any of the disqualifications mentioned in Sub-section (1); or
 - ²[(b) resigns his seat by writing under his hand addressed—
 - (i) in the case of trustee appointed by the Assistant Commissioner, to the Assistant Commissioner;
 - (ii) in the case of trustee appointed by the Deputy Commissioner, to the Joint/Deputy Commissioner; and
 - (iii) in any other case, to the Commissioner, his seat shall thereupon become vacant.]
- (3) If any question arises as to whether a trustee has become subject to any of the disqualifications mentioned in Sub-section (1), the question shall be referred for the decision of ³[the Joint/Deputy Commissioner.]
- (4) If a hereditary trustee becomes subject to any of the disqualifications mentioned in Sub-section (1), ⁴[the Joint Commissioner or the Deputy Commissioner, as the case may be], may supercede the trustee.
- ⁵[(5) Any person affected by an order of the Joint/Deputy Commissioner under Sub-section (3) or Sub-section (4) may, within one month from

1. This Clause was inserted by Section 2(i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

2. Clause (b) was substituted by Tamil Nadu Act 39 of 1996.

3. Substituted for the words "the Temple Administration District Committee" by Tamil Nadu Act 39 of 1996.

4. Substituted for the words 'Deputy Commissioner' by Tamil Nadu Act 38 of 1995.

5. Sub-section (5) was substituted by Tamil Nadu Act 39 of 1996.

the date of receipt of the order by him, appeal, against the order, to the Commissioner.]

- (6) The trustee of a religious institution for which a Board of Trustees has been constituted shall cease to hold office if he absents himself from three consecutive meetings of such Board of Trustees within a period of two months:

Provided that when a person who has ceased to be a trustee by reason of such absence applies for restoration within one month from the date of the last of the three meetings, the Board of Trustees may, at the meeting next after the receipt of such application, restore him to his office of trustee; but a trustee shall not be so restored more than once during his term of office.

Explanation.— A meeting adjourned for want of quorum shall be deemed to be a meeting for the purpose of this Sub-section.

Notes

This provision dealing with qualification of trustees had been amended by Act 19 of 1968, Act 30 of 1994, Act 38 of 1995, and Act 39 of 1996. In *Ramaswamy v. Dy. Commissioner, H.R. & C.E.* (1973)1 M.L.J. 320, it was held that a Trustee includes a Hereditary Trustee and hence these disqualifications applicable to a Trustee are equally applicable to a Hereditary Trustee too. In *Chockalingam Poosari, v. Ramaswami Poosari* A.I.R. 1977 Mad. 169, the Division Bench held that the provisions are not applicable to Hereditary Trustees and the view in (1973)1 M.L.J. 320, specified *supra* had been reversed.

Does not profess the Hindu religion

Sub-section (1) (a) says that a person shall be disqualified to be appointed as a trustee of any religious institution if he does not profess the Hindu religion.

Hindu religion

See *Morarjee v. Administrator General*, A.I.R. 1928 Mad. 1270; *Gopal Maharaj v. Sita Devi*, A.I.R. 1932 P.C. 34; *Palaniappa v. Alagan*, A.I.R. 1922 P.C.228; *Commissioner Wealth Tax v. Champa Kumari*, A.I.R. 1972 S.C. 2119.

Not a citizen of India

Section 26 (1) (aa) was introduced by Act 30 of 1994 and this provision says that a person shall be disqualified to be appointed as a trustee of any religious institution if he is not a citizen of India.

See Part II Articles 5 to 11 of the Constitution of India and the Citizenship Act, 1955 and the Rules.

For citizenship

See *National Human Rights Commission v. State of Arunachal Pradesh*, (1996)1 S.C.C. 742; *Moginuddin v. Government of India*, (1967)2 S.C.R 401; *Jhar Ahmad Khan v. Union of India*, AIR 1962 S.C. 1052.

State of U.P. v. Shah Md., AIR 1969 S.C. 1234; *Dupali Katia Chadha v. Union of India*. (1996)7 S.C.C. 432; *Kulathai Mammu v. State of Kerala*, A.I.R. 1966 S.C. 1614;

Abdul Sattar v. State of Gujarat, A.I.R.1956 S.C. 810; *Central Bank of India v. Ram Narain*, A.I.R.1955 S.C. 36; *Abdul Samad v. State of West Bengal*, A.I.R.1973 S.C. 505; *Prithipal Singh v. Union of India*, A.I.R. 1982 S.C. 1413; *Kadar Panday v. Narain*, A.I.R. 1966 S.C. 160; *Pradeep Jain v. Union of India*, A.I.R.1984 S.C. 1420; *State of A.P. v. Khader Abdul.*, A.I.R. 1961 S.C. 1467.

State of M.P. v. Peer Md, AIR 1963 S.C. 645; *Union of India v. Ghaus Mahommad*, A.I.R.1961 S.C. 1526; *Mohan Lal Arya v. Union of India.*, A.I.R.2003 All.11; *World Human Rights Protection v. Union of India*, A.I.R. 2004 J&K 6; *A. K. Mukerjee v. Pradip Ranjan*, A.I.R.1988 Cal. 259; *Raja Mohd. Hussain Khan, v. State*, A.I.R. 2004 J & K 16; *Bhanwaroo Khan v. Union of India*, A.I.R. 2002 S.C. 1614.

Undischarged insolvent

Section 26 (1) (c) says that a person shall be disqualified to be appointed as trustee of any religious institution if he is an undischarged insolvent.

For undischarged insolvent

Sections

See *Srinivasulu Naidu v. Sundaresa Iyer*, A.I.R.1937 Mad. 677; *Sundarammal v. Thiruvengada Iyengar*, A.I.R. 1941 Mad. 100; *Raghunath v. Ganesh*, A.I.R.1964 S.C. 234; *Athiappa Chettiar v. Abramsa Rowther*, A.I.R.1942 Mad. 151; *Ravi v. Ravi*, A.I.R.1999 S.C. 3309; *Karunakaran Menon v. Sankaran Unni*, A.I.R.1943 Mad. 644; *Sarvarayudu v. Konḍalarayudu*, A.I.R.1961 A.P. 219; *Desikachari v. Official Receiver, Chengulpet*, (1942) 2 M.L.J. 714; *Raja Laxmamma v. Raghavayya.*, A.I.R.1943 Mad. 592.

For an offence involving moral delinquency

Section 26 (1) (g) specifies that a person shall be disqualified for being appointed as trustee of any religious institution if he has been sentenced by a Criminal Court for an offence involving moral delinquency, such sentence not having been reversed or the offence pardoned. In the absence of specific definition, it would be difficult to precisely define what “moral delinquency” would mean. Moral delinquency or moral turpitude are the expressions often used and whether an offence would fall under these expressions or not may have to be decided in a given case. In *Baleshwar Singh v. District Magistrate, Banaras*, A.I.R. 1959 All. 71, it was held that the expression “moral turpitude” is not defined anywhere but it means anything done contrary to Justice, honesty, modesty or good morals and it implies depravity and wickedness of character or disposition of the person charged with the particular conduct and every false statement made by a person may not be moral turpitude but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general.

Black’s Law Dictionary on “moral” says:

“Pertains to character, conduct, intention, social relations, etc.

1. Pertaining to or relating to the conscience or moral sense or to the general principles of right conduct.

2. Cognizable or enforceable only by the conscience or by the principles of right

conduct as distinguished from positive law.

3. Depending upon or resulting from probability, raising a belief or conviction in the mind independent of strict or logical proof.

4. Involving or affecting the moral sense as in the phrase "moral insanity".

New Oxford Dictionary of English on "moral" says:

"concerned with the principles of right and wrong behaviour "

The Chambers Dictionary says:

"of or relating to character or conduct considered as good or evil; ethical adhering to or directed towards what is right; virtuous "

New Oxford Dictionary of English on "delinquency" says:

"Minor crime, especially that committed by young people - social causes of crime and delinquency, formal neglect of one's duty, a failure to pay an outstanding debt by the due date".

The Chambers Dictionary says:

"Failure in or omission of duty esp - financial; a fault; Crime, the state of being delinquent."

Black's Law Dictionary on "Delinquency" says:

"Failure, omission, violation of law or duty. Failure to make payment on debts when due, state or condition of one who has failed to perform his duty or obligation".

Hereditary Trustee and Non-Hereditary Trustee

In *S.Chockalingam Poosari v. Ramaswami Poosari*, A.I.R.1977 Mad. 169, it was held that a hereditary trustee in a Board of Trustees will not cease to hold office merely because he absents himself from three consecutive meetings of such Board of Trustees within a period of two months and to hold that he so ceased would amount to extinguishing his right of succession and to continue his office by reason of his hereditary right and Section 26 itself draws a distinction between a hereditary trustee and a non-hereditary trustee and this distinction also is to be found in other sections.

Sections 26 and 54 of the Act.

In *Veerappan v. Commissioner, H.R. & C.E.* (1985)2 M.L.J. 7, it was held that these provisions relate to appointment of hereditary trustees and not to fit persons.

Acting adversely to the interest of the institution

In *Duraivelu v. Commissioner, H.R. & C.E.*, (1967)1 M.L.J. 421, the disqualification acting adversely to the interest of the institution was discussed.

27. Trustee bound to obey orders issued under this Act.—

The trustee of a religious institution shall be bound to obey all lawful orders issued under the provisions of this Act by the Government, ¹[* * *] the Commissioner, ²[the Additional Commissioner], ³[the Joint Commissioner], the Deputy Commissioner ⁴[* * *] or the Assistant Commissioner.

28. Care required of trustee and his powers.—

- (1) Subject to the provisions of the ⁵[Tamil Nadu] Temple Entry Authorisation Act, 1947 (⁵[Tamil Nadu] Act V of 1947), the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties, if they were his own.
- (2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incidental to the provident and beneficial administration of the religious institution and to do all things necessary for the due performance of the duties imposed on him.
- (3) A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges or expenses incurred by him in any suit, appeal or application or other proceedings for, or incidental to his removal from office or the taking of any disciplinary action against him:

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under Section 102.

29. Preparation of register for all institutions.—

- (1) For every religious institution, there shall be prepared and maintained a register in such form as ¹[the Commissioner] may direct, showing—
 - (a) the origin and history of the institution and the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee;

1. The words "the Temple Administration Board, the District Committee" were inserted by Tamil Nadu Act 46 of 1991 and subsequently omitted by Tamil Nadu Act 39 of 1996.

2. Added by Tamil Nadu Act 50 of 2000 with effect from 7th July, 1997.

3. Added by Tamil Nadu Act 18 of 1993.

4. The words "Area Committee" were omitted by Tamil Nadu Act 19 of 1968.

5. Substituted for the word "Madras" by Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

- (b) particulars of the scheme of administration and of the *dittam* or scale of expenditure;
 - (c) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time, and conditions of service in each case;
 - (d) the jewels, gold, silver, precious stones, vessels and utensils and other movables belonging to the institution, with their weights and estimated value;
 - (e) particulars of all other endowments of the institution and of all title-deeds and other documents;
 - (f) particulars of the idols and other images in or connected with the institution, whether intended for worship or for being carried in processions;
 - (g) particulars of ancient or historical records with their contents in brief;
 - (h) such other particulars as may be required by ¹[the Commissioner.]
- (2) The register shall be prepared, signed and verified by the trustee of the institution concerned or by his authorised agent and submitted by him to ¹[the Commissioner], directly in the case of a Math, ²[* * *] and through ³[the Assistant Commissioner] in other cases, within three months from the date of the commencement of this Act or from the founding of the institution, as the case may be, or within such further period as may be allowed by ¹[the Commissioner] ²[* * *] or ³[the Assistant Commissioner]:
- Provided that this Sub-section shall not apply where a register so signed and verified has been submitted to—
- (i) the Board before the 30th September, 1951; and
 - (ii) ⁴[the Commissioner] after the 30th September, 1951 and before the date of the commencement of this Act;
- ⁵[(3) the Assistant Commissioner, if the register is submitted through him, may, after such inquiry as he may consider necessary, recommend such

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

2. These words "through the Area Committee, in case the institution is one in respect of which the Area Committee exercises powers and discharges duties" and the words "the Area Committee" were omitted by Tamil Nadu Act 19 of 1968.

3. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the District Committee" which in turn were substituted for the words "the Assistant Commissioner" by Tamil Nadu Act 46 of 1991.

4. Substituted for the words "the Commissioner" by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991 and subsequently the words "the Temple Administration Board" were substituted by the words "the Commissioner" by Tamil Nadu Act 39 of 1996.

5. Sub-sections (3) and (4) were substituted by Tamil Nadu Act 39 of 1996.

alterations, omissions or additions in the register as he may think fit].

- (4) The Commissioner may, after receiving the register and the recommendations of the Assistant Commissioner with respect thereto and making such further inquiry as he may consider necessary, direct the trustee to make such alterations, omissions or additions, in the register as the Commissioner may deem fit].
- (5) The trustee shall carry out the orders of ¹[the Commissioner] and then submit three copies of the register as corrected to ¹[the Commissioner] for approval.
- (6) One copy of the register as approved by ¹[the Commissioner] shall be furnished to the trustee and one ²[to ³[the Assistant Commissioner] concerned].

30. *Annual verification of the register.—*

The trustee or his authorised agent shall scrutinize the entries in the register every year and submit to ⁴[the Commissioner for his approval, directly or through the Assistant Commissioner], as the case may require; a verified statement showing the alterations, omissions, or additions, required in the register and the provisions of Sub-sections (3) to (6) of Section 29, shall apply in relation to such statement as they apply in relation to a register.

31. *Submission of register once in ten years.—*

The Trustee or his authorised agent shall submit to ⁴[the Commissioner, for his approval directly or through the Assistant Commissioner], as the case may require, once in every ten years (commencing from the year in which the register required under Section 29 is first submitted), a consolidated register incorporating therein all alterations, omissions and additions made or required to be made in the register submitted under Section 29 and the provisions of that Section shall apply to such consolidated register as if it were a register submitted under that Section.

1. Substituted for the words "the Commissioner" by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991 and subsequently the words "the Temple Administration Board" were substituted by the words "the Commissioner" by Tamil Nadu Act 39 of 1996.

2. Substituted for the words "to the Area Committee or Assistant Commissioner concerned, if any" by Tamil Nadu Act 19 of 1968.

3. Substituted for the words "the Assistant Commissioner" by the words "the District Committee" by Tamil Nadu Act 46 of 1991 and subsequently the words "the District Committee" were substituted by the words "the Assistant Commissioner" by Tamil Nadu Act 39 of 1996.

4. These words were substituted for the words "the Temple Administration Board for its approval directly or through the District Committee" by Tamil Nadu Act 39 of 1996, which in turn were substituted for the words "the Commissioner for his approval directly or through the Assistant Commissioner" by Tamil Nadu Act 46 of 1991.

32. *Trustee to furnish accounts, returns, etc.—*

- (1) The trustee of every religious institution shall furnish to ¹[the Commissioner] such accounts, returns, reports or other information relating to the administration of the institution, its funds, property or income or moneys connected therewith, or the appropriation thereof, as ¹[the Commissioner] may require and at such time and in such form as ²[he] may direct.
- (2) Without prejudice to the provisions contained in Sub-section (1), ³[the Assistant Commissioner] in the case of any religious institution other than a Math ⁴[* * *] may require the trustee of such religious institution to ⁵[furnish to him] ³[* * *] such accounts, returns, reports or other information relating to the administration of the institution, its funds, property or income or moneys connected therewith or the appropriation thereof and at such time and in such form⁶[as he may direct].

33. *Inspection of property and documents.—*

- (1) ¹[The Commissioner] or any officer or other person deputed by ¹[the Commissioner] in this behalf, ⁷[* * *] may, with due regard to the religious practice or usage of the institution, inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, religious institution.
- (2) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of Sub-section (1) and also to produce for inspection any movable property or document referred to in Sub-section (1) and to furnish such information as may be necessary in connection with such inspection, if so required.

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

2. Substituted by Tamil Nadu Act 39 of 1996 for the words "it" which in turn was substituted for the words "he" by Tamil Nadu Act 46 of 1991.

3. These words were substituted for the words "the Temple Administration District Committee" by Tamil Nadu Act 39 of 1996.

4. These words "and the Area Committee" in the case of any religious institution in respect of which "the area Committee exercises powers and discharge duties" were omitted by Tamil Nadu Act 19 of 1968.

5. Substituted for the words "furnish to it" by Tamil Nadu Act 39 of 1996.

6. Substituted for the words "as it may direct" by Tamil Nadu Act 39 of 1996.

7. The words "and in the case of institutions in respect of which the Area Committee exercises powers and discharges duties, any member of the Committee authorized by it in this behalf" were omitted by Section 17 of Tamil Nadu Act 19 of 1968.

- (3) Where in the course of such inspection, it appears that the trustee of the institution concerned, or any of the officers or servants working under him, his agent or any other person having concern in the administration of the institution, past or present, has misappropriated or fraudulently retained any money or other property or incurred irregular, illegal or improper expenditure, ¹[the Commissioner may], after giving notice to the trustee or person concerned to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not from the funds of the institution.

The procedure laid down in Sub-sections (3) to (7) of Section 90 shall apply to the recovery of the amount of surcharge.

Notes

Section 33 of the Act deals with inspection of property and documents.

Failure to deposit in Co-operative Bank

This provision is applicable to cases of misappropriation or fraudulent retention of money and it is not applicable where temple was put to loss due to failure to deposit money in a Co-operative bank as per Government order, *Sethurathinammal v. Commissioner H.R. & C.E.*, (1996) 2 L.W.131: (2003) 1 M.L.J. 563,

Basha Saheb v. Valikandarpuram Village Kasi Viswanathaswami Koil represented by its villagers Sellamuthu and others, (2003)1 M.L.J. 563.

The suit is filed on behalf of the worshippers of the village, in a representative capacity, for declaration and injunction in respect of the temple property, and the suit is maintainable. Any worshipper can maintain a suit even for possession if there is no lawful trustee.

Any alienation of the temple property by unauthorised person and contrary to the provisions of the Act, would not transfer title to the alienee.

34. Alienation of immovable trust property.—

- (1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purposes of, any religious institution shall be *null and void* unless it is sanctioned by ¹[the Commissioner] as being necessary or beneficial to the institution:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect

1. These words were substituted for the words "the Temple Administration Board for its approval directly or through the District Committee" by Tamil Nadu Act 39 of 1996, which in turn were substituted for the words "the Commissioner for his approval directly or through the Assistant Commissioner" by Tamil Nadu Act 46 of 1991.

thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by ¹[the Commissioner]:

²[Provided further that the Commissioner shall not accord such sanction without the previous approval of the Government].

Explanation.—Any lease of the property above mentioned though for a term not exceeding five years shall, if it contains a provision for renewal for a further term (so as to exceed five years in the aggregate), whether subject to any condition or not, be deemed to be a lease for a period exceeding five years.

- (2) When according such sanction, ¹[the Commissioner] may impose such conditions and give such direction, as ³[he] may deem necessary regarding the utilisation of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period.
- (3) A copy of the order made by ¹[the Commissioner] under this Section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.
- (4) The trustee may, within three months from the date of his receipt of a copy of the order, and any person having interest may, within three months from the date of the publication of the order, ⁴[appeal to the Court] to modify the order or set it aside.
- ⁵[(4-A) The Government may issue such directions to the Commissioner as in their opinion are necessary, in respect of any exchange, sale, mortgage or lease of any immovable property, belonging to, or given or endowed for the purpose of, any religious institution and the Commissioner shall give effect to all such directions].
- (5) Nothing contained in this Section shall apply to the inams referred to in Section 41.

Notes

Section 34 of the Act deals with alienation of immovable Trust property. In *Chenchurami Reddy v. Government of A.P.*, A.I.R 1986 S.C. 1158, The Apex Court depreciated sale of land of Charitable Endowment by private negotiations and certain guidelines for conduct by public auction also had been specified.

1. The words "the Commissioner" were substituted by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991, and subsequently the words "the Temple Administration Board" were substituted for the words "the Commissioner" by Tamil Nadu Act 39 of 1996.

2. Inserted by Tamil Nadu Act 38 of 1998 which came into force on the 22nd January, 1999.

3. The words "he" was substituted by the word "it" by Tamil Nadu Act 46 of 1991 and subsequently the word "it" was substituted by the word "he" by Tamil Nadu Act 39 of 1996.

4. Substituted for the words "appeal to the Government" by the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1998 (Tamil Nadu Act 38 of 1998), which came into force on the 22nd January, 1999.

5. Inserted by Tamil Nadu Act 38 of 1998.

Alienation without sanction of Commissioner

Alienation or sale by religious institution without sanction of Commissioner will not be valid, *Basha Sahib v. Valikandapuram village Kasi Viswanathaswami Koil*, (2003)1 M.L.J. 563; *Commissioner H.R. & C.E. v. Mary Isabel*, (1989)1 M.L.J. 83

Sanction and Delegation

In *Commissioner H.R. & C.E. v. Mary Isabel*, (1989)1 M.L.J. 83, it was held that while dealing with the aspect of sanction, Commissioner alone should arrive at a decision whether sale, exchange, or mortgage would be beneficial to the institution and such power cannot be delegated.

Sale of properties of religious institution

In *Govindaswamy Naidu v. Poornavalli*, (1993)2 M.L.J. 390, it was held that sale of trust properties - religious institution shall be *null and void* unless sanctioned by the Commissioner. In *Arumugam v. State of Tamil Nadu*, (1995)2 M.L.J. 269, it was held that Commissioner alone may sanction or refuse to sanction sale and he cannot suggest sale by some other mode.

Public Auction

In the *Executive Officer Arunmozhi Varadaraja Perumal Koil v. Arumugam*, (1995) 2 M.L.J. 453, it was held by Division Bench that Section 34 (1) of the Act does not bar Sale of property of religious endowment by public auction and principles laid down in *Chenchurami Reddy v. Government of A.P.*, A.I.R 1986 S.C. 1158, are applicable to such sales governed by the Act.

The decree under the City Tenants Protection Act did not become final since the conveyance of the leased land had not been executed by the Religious Institution in favour of the tenant. Under the amendment TN Act 2 of 1996 the proceedings instituted by the tenant for the purchase of the property owned by the Religious Institution would abate and determine, *Arulmigu Kabaleeswarar Temple Vijayapuram by its E.O. Tiruvarur v. Subbulakshmi*, (2004) 2 M.L.J. 149.

Any alienation of the immovable property of the temple would be *null and void* unless it was sanctioned by the Commissioner. The Commissioner in according sanction should have due regard to the necessity for the sale and the benefit of the temple and in accordance with Section 34 of the Act. *Jagadhambigal Nagar Co-operative House Site Society represented by its President, Chennai v. State of Tamil Nadu rep. by the Secretary to the Government H.R. & C.E. Department, Chennai and others*, (2004)2 M.L.J. 386.

¹[34-A. Fixation of lease rent.—

- (1) The lease rent payable for the lease of immovable property belonging to, or given or endowed for the purpose of, any religious institution, shall be fixed by a Committee consisting of the Joint Commissioner,

1.Sections 34-A to 34-D were inserted by Tamil Nadu Act 25 of 2003 which came into force on the 10th May, 2003.

the Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, of the religious institution and the District Registrar of the Registration Department in the district concerned taking into account the prevailing market rental value and the guidelines, as may be prescribed and such lease rent shall be refixed in the like manner once in three years by the said Committee.

Explanation.—For the purpose of this Sub-section, “prevailing market rental value” means the amount of rent paid for similar types of properties situated in the locality where the immovable property of the religious institution is situated.

- (2) The Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, of the religious institution concerned, shall pass an order fixing the lease rent and intimate the same to the lessee specifying a time within which such lease rent shall be paid.
- (3) Any person aggrieved by an order passed under Sub-section (2), may within a period of thirty days from the date of receipt of such order, appeal to the Commissioner, in such form and in such manner, as may be prescribed.
- (4) The Commissioner may after giving the person aggrieved an opportunity of being heard, pass such order as he thinks fit.
- (5) Any person aggrieved by an order passed by the Commissioner under Sub-section (4) may, within ninety days from the date of receipt of such order, prefer a revision petition to the High Court:

Provided that no appeal or revision shall be entertained under Sub-section (3) or Sub-section (5), as the case may be, unless it is accompanied by satisfactory proof of deposit of the lease rent so fixed or refixed, in the account of the religious institution concerned and such amount shall be adjusted towards the lease amount payable by the lessee as per the order passed in the appeal or revision, as the case may be.

Notes

Appeal and Revision

As against an order made fixing the lease rent by Executive Officer or the Trustee or the Chairman of the Board of Trustees, appeal lies to Commissioner and as against the said order revision lies to High Court. *Proviso* to Sub-section (5) specifically says that no appeal or revision shall be entertained unless it is accompanied by satisfactory proof of deposit of the lease rent so fixed or refixed in the account of the religious institution concerned.

34-B. Termination of lease of immovable property.—

- (1) The lease of immovable property belonging to, or given or endowed for the purpose of, any religious institution shall be liable to be terminated

on the non-payment of the lease rent after giving a reasonable opportunity of being heard.

- (2) No proceeding to terminate the lease shall be initiated, if—
 - (i) the time for appeal or revision under Sub-section (3) or Sub-section (5), as the case may be, of Section 34-A has not expired; or
 - (ii) the order has been made the subject of such appeal or revision till the disposal of the matter.
- (3) On the termination of the lease under Sub-section (1), the property shall vest with the concerned religious institution free from all encumbrances and the Executive Officer, the Trustee or the Chairman of the Board of Trustees, as the case may be, of such religious institution shall take possession of the property including the building, superstructure and trees, if any.

34-C. *Payment of amount.*—

- (1) There shall be paid an amount to the lessee for the building, superstructure and trees, if any, erected or planted in accordance with the terms of agreement or with the permission of the Commissioner by the lessee on the property vested with the religious institution under Section 34-B.
- (2) The amount specified in Sub-section (1) shall be determined by a Committee consisting of the Joint Commissioner, Executive Engineer (Buildings) of Public Works Department having jurisdiction over the area in which the religious institution is situated, the Divisional Engineer (Hindu Religious and Charitable Endowments) concerned and the Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, of the religious institution and shall be paid by such religious institution in such manner, as may be prescribed.
- (3) In determining the amount, the Committee shall be guided by the provisions contained in Sections 23, 24 and other relevant provisions of the Land Acquisition Act, 1894 (Central Act I of 1894).
- (4) The Executive Officer or the Trustee or the Chairman of the Board of Trustees, as the case may be, shall pass an order specifying the amount payable under Sub-section (1) after adjusting the arrears of lease rent, if any, due.
- (5) Any person aggrieved by an order passed under Sub-section (4) may, within a period of thirty days from the date of receipt of such order, appeal to the Commissioner in such form and in such manner, as may be prescribed.
- (6) The Commissioner may, after giving the appellant an opportunity

of being heard, pass such order as he thinks fit.

- (7) Any person aggrieved by an order passed by the Commissioner under Sub-section (6) may, within ninety days from the date of receipt of such order, prefer a revision petition to the High Court.

34-D. Bar of jurisdiction of Civil Court.—

Save as otherwise provided in Section 34-A or 34-C, no suit or other legal proceeding in respect of an order passed under Section 34-A or 34-B or 34-C, as the case may be, shall be instituted in any Court of law.]

35. Authority of trustee to incur expenditure for securing health, etc., of pilgrims and worshippers and for training of archakas, etc.,—

- (1) The trustee of a religious institution may, out of the funds in his charge, after making adequate provision for the purposes referred to in Sub-section (2) of Section 86, incur expenditure—
- (a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and
 - (b) for the training of Archakas, Adhyapakas, Vedaparayanikas and Othuvans.
- (2) In incurring such expenditure, the trustee of the religious institution other than a Math or a specific endowment attached to a Math shall be guided by such general or special instructions as may be given by ¹[the Commissioner].

36. Utilisation of surplus funds.—

With the previous sanction of ¹[the Commissioner], and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institution may appropriate for any of the purposes specified in Sub-section (1) of Section 66:

- (i) any portion of the accumulated surplus of such institution, and
- (ii) if, after making adequate provision for the purposes referred to in Sub-section (2) of Section 86 and also for the arrangements and the training referred to in Sub-section (1) of Section 35, there is a surplus in the income of the institution for any year or any portion of such surplus:

Provided that the trustee shall, in appropriating the surplus under this Section, give preference to the purposes specified in items (a) to (g) of Sub-section (1) of Section 66:

Provided further that, before according the sanction under this Section,

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

¹[the Commissioner] shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest:

Provided also that, the sanction aforesaid shall be published in such manner as may be prescribed:

Provided also that, nothing in this Section shall prevent the trustee of a Math or of a specific endowment attached to a Math from utilising the surplus referred to in this Section in such manner as he deems fit.

²[36-A. *Utilisation of surplus funds for Hindu marriages.*—

Notwithstanding anything contained in Section 36 and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institution may, in addition to the purposes mentioned in that Section, appropriate any portion of the surplus fund referred to in Sections 25, 36, for the performance of Hindu marriages among Hindus who are poor or in needy circumstances].

³[36-B. *Utilisation of surplus funds for making contribution towards any funds for the purposes of feeding the poor, etc.*—

Notwithstanding anything contained in Sections 36, 36-A and in any other provision of this Act and subject to such conditions and restrictions as may be prescribed, the trustee of a religious institution may, in addition to the purposes mentioned in Sections 25, 36 and 36-A, appropriate any portion to the surplus fund referred to in Section 36 for making any contribution towards any fund constituted for the purpose of —

(i) feeding the poor; or

(ii) constructing any building, shed or centre for feeding the poor.

37. Appeals.—

Any person aggrieved by a decision of ⁴[the Commissioner] under Section 36 may, within ninety days from the date of the decision, appeal to the Government.

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words “the Temple Administration Board” which in turn were substituted for the words “the Commissioner” by Tamil Nadu Act 46 of 1991.

2. This Section was inserted by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

3. Section 36-B was inserted by the Tamil Nadu Act 48 of 1983.

4. These words were substituted for the words “the Temple Administration Board for its approval directly or through the District Committee” by Tamil Nadu Act 39 of 1996, which in turn were substituted for the words “the Commissioner for his approval directly or through the Assistant Commissioner” by Tamil Nadu Act 46 of 1991.

Notes

Section 37 of the Act deals with Appeals.

Any person aggrieved by a decision of the Commissioner under Section 36 may appeal to the Government.

Limitation

Such appeal to be filed within ninety days from the date of the decision.

38. *Enforcement of service or charity in certain cases.*—

- (1) Where a specific endowment attached to a Math or temple consists merely of a charge on property and there is failure in the due performance of the service or charity, the trustee of the Math or temple concerned may require the person in possession of the property on which the endowment is a charge, to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise. In default of such person making payment as required, the Commissioner in the case of a specific endowment attached to a Math, and ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], in the case of a specific endowment attached to a temple, may, on the application of the trustee and after giving the person in possession, a reasonable opportunity of stating his objections in regard thereto, by order determine the amount payable to the trustee.
- (2) Where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the service or charity and any amount is paid by or recovered from the person in possession, the Commissioner in the case of a specific endowment attached to a Math and ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], in the case of a specific endowment attached to a temple, may, on the application of the person in possession and after giving the person responsible in law a reasonable opportunity of stating his objections in regard thereto, by order, require the person responsible in law to pay to the person in possession the amount so paid or recovered.
- (3) Against an order of the Commissioner or ¹[the Joint Commissioner or the Deputy Commissioner] under Sub-section (1) or Sub-section (2), the trustee or the person affected may, within two months from the date of the receipt of the order by him, appeal to the Government or the Commissioner, as the case may be.

An order passed on appeal by the Government or the Commissioner shall be final.

1. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

- (4) On application by the trustee to the Collector of the district in which the property referred to in Sub-section (1) is situated, or on application by the person in possession to the Collector of the district in which is situated any property of the person responsible in law, as the case may be, the Collector shall recover from the person in possession or the person responsible in law, as the case may be, the amount specified in the order of the Commissioner or ¹[the Joint Commissioner or the Deputy Commissioner] as modified in appeal, if any, and the expenses of such recovery, as if they were arrears of land revenue and pay to the trustee or, as the case may be, to the person in possession, the amount due to him.

39. Power of trustee of Math or temple over trustees of specific endowments.—

The trustee of specific Endowment made for the performance of any service or charity connected with a Math or temple shall perform such service or charity subject to the general superintendence of the trustee of the Math or temple and shall obey all lawful orders issued by him.

Notes

Section 39 of the Act deals with power of trustee of Math or temple over trustees of specific endowments.

Kattalai Trustee

In *Subramania Chettiar v. The Poovalur Thirumoolanathaswami Sayarakshai Arthajamam Kattalai*, (1965)1 M.L.J. 354, it was held that during performance of Kattalai only Kattalai trustee would officiate as general trustee.

Charity

In *Kuldipchand v. A.G. to Government of H.P.* A.I.R 2003 S.C. 1685, it was held that the meaning of charitable purpose may depend upon the statute defining the same.

Legal Status of idol

See *Manohar v. Bhupendranath*, A.I.R 1932 Cal. 791; *Parammil v. Parameswaran*, A.I.R 1946 Mad. 369; *Pramathanath v. Pradyamna*, A.I.R 1925 P.C. 139; *Sri Gopal v. Radha Binde Mandal*, A.I.R 1925 Cal. 996; *Bimal Krishna v. Jnanendra*, A.I.R 1937 Cal. 338; *Budhu v. Kuladprasad*, A.I.R 1919 Cal. 245; *Mathevan Pillai v. Kasi Viswanatha Ninar*, 1951 Ker. L.T. 202; *Doongarsee Shyamji Joshi v. Thirubhuvan Das*, A.I.R 1947 All. 375; *Jogendranath v. Commissioner, DT*, A.I.R 1969 S.C. 1089; *Jagannath v. Jurthananda Das*, A.I.R 1952 312; *Ishwar Radhakanta v. Gopinath*, A.I.R 1960 Cal. 741; *Piara Singh v. Shri Guru Granth Sahib Mandir*, A.I.R 1973 470.

Specific Endowments

See *Commissioner H.R. & C.E. v. Narayana*, A.I.R 1965 S.C. 1916; *H B E Endowments v. Marutha Naicker*, (1945)1 M.L.J. 345; *Deva Bandram v. Nagappa*, A.I.R 1942 Mad. 39; (1941)2 M.L.J. 636; *H.R.E. Board v. Koteswara Lakshmi*, A.I.R 1937 Mad. 852,

1. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

Narasimhachari v. Sri Agartheeswaraswami Varu, (1960) 2 M.L.J. 61 (S.C.); *Sankara Narayana v. Board of Commissioner*, (1947) 2 M.L.J. 315. *Kattalai Ganasambanda v. Udayalinga Mudali* 18 L.W 247.

40. Enfranchisement of lands, etc., held by a devadasi on condition of service in a temple.—

- (1) (a) (i) Where the remuneration for any service to be performed by a devadasi in temple consists of lands granted or continued in respect of, or annexed to, such service by the Government, the Government shall enfranchise the said lands from the condition of service, by the imposition of quit-rent.
- (ii) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the Government shall enfranchise such assignment of revenue from the condition of service:

Provided that where, at the time when proceedings are taken under this Sub-clause, the devadasi is herself the owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in Sub-clause (i).

- (iii) Where the remuneration for such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in Sub-clause (i) and of the assignment of the land revenue in the manner laid down in Sub-clause (ii).

Explanation.—For the purposes of this Clause, a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the *Proviso* to Sub-clause (ii), the owner of the lands in question.

- (b) Enfranchisement under Clause (a) shall be effected in accordance with such rules as the Government may make in this behalf and shall take effect as and from such date as they may fix.
- (2) Where the remuneration for such service consists in whole or in part, of lands or of produce of lands not falling under Sub-section (1), the Government shall direct the District Collector to determine the amount of rent payable on the lands or the produce in question. The District Collector shall thereupon, after giving notice to the party concerned and holding such inquiry as may be prescribed by the Government, by an order, determine the amount of rent, and in doing so, he shall have due regard to—
 - (a) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighbouring villages; and

- (b) the improvements, if any, effected by the devadasi in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

- (3) The amount of rent fixed by the District Collector under Sub-section (2) may be questioned by petition presented to the *Board of Revenue within three months of the date of the publication of the order under the said Sub-section but subject to the result of such petition, the order of the District Collector fixing the amount of rent under Sub-section (2) shall be final and shall not be liable to be questioned in any Court of law:

Provided however, that the *Board of Revenue shall have power on sufficient grounds to entertain a petition presented after the expiration of the period of three months.

- (4) While determining the rent under Sub-section (2), the District Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service on and from the date so fixed.
- (5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable when such land, assignment or produce is enfranchised or freed, as the case may be, in the manner hereinbefore provided.
- (6) No order passed under Sub-sections (1), (2) or (3) shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land, or assignment of land revenue or produce derived from land, as the case may be.
- (7) (a) The quit-rent imposed under Sub-section (1) shall be payable to the temple concerned.
- (b) The assignment of land revenue enfranchised under Sub-section (1), or the rent fixed under Sub-sections (2) and (3), as the case may be, shall be payable to the devadasi concerned during her lifetime and, after her death, to the temple concerned.
- (8) Where any inam is granted for a service which is auxiliary to the service to be performed by a devadasi in a temple, such inam shall be enfranchised or freed from the condition of service, as if it were a devadasi inam; and the provisions of Sub-sections (1) to (7) shall apply accordingly.

* By virtue of Section 10 (1) of the Tamil Nadu Board of Revenue Abolition Act, 1980 (Tamil Nadu Act 36 of 1980), any reference to the Board of Revenue shall be deemed to be a reference to the State Government of the Appropriate Authority specified in the notification under Section 4(1) of the said Act.

- (9) For the purpose of this Section, “devadasi” shall mean any Hindu unmarried female, who is dedicated for service in a temple.

41. Resumption and re-grant of inam granted for performance of any charity or service.—

- (1) Any exchange, gift, sale or mortgage and any lease for a term exceeding five years of the whole or any portion of any inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or of any other religious charity and made, confirmed or recognised by the Government shall be *null and void*:

Provided that any transaction of the nature of aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.

Explanation.— Nothing contained in this Sub-section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the ¹[Tamil Nadu] Estates Land Act, 1908 (¹[Tamil Nadu] Act I of 1908).

- (2) (a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely:—
- (i) that except in the case referred to in the proviso to Sub-section (1), the holder of such inam or part or the trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof for a term exceeding five years; or
 - (ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible of performance; or
 - (iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognised as aforesaid, or any part of the said charity or service, as the case may be.

When passing an order under this Clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is a grant of both the melvaram and the kudivaram or only of the melvaram:

1. These words were substituted for the word “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

Provided that, in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram.

- (b) before passing an order under Clause (a), the Collector shall give notice to the trustee, to the Commissioner, to the inamdar concerned, to the person in possession of the inam where he is not the inamdar and to the alienee, if any, of the inam; the Collector prescribed and such publication shall be deemed to be sufficient notice to every other person likely to be affected by such order; and the Collector shall hear the objections, if any, of the persons to whom such notice is given or deemed to be given and hold such inquiry as may be prescribed.

Explanation.—Where only a part of the inam is affected, notice shall be given under this Clause to the holder of such part as well as to the holder or holders of the other part or parts, to the person in possession of every such part where he is not the holder thereof, and to the alienee, if any, of every such part; and the objections of all such persons shall be heard by the Collector.

- (c) A copy of every order passed under Clause (a) shall be communicated to each of the persons mentioned in Clause (b), and shall also be published in the manner prescribed.
- (d) (i) Any party aggrieved by an order of the Collector under Clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal, the District Collector may, after giving notice to the Commissioner and each of the persons mentioned in Clause (b) and after holding such enquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.
- (ii) The order of the District Collector on such appeal, or the Collector under Clause (a) where no appeal is preferred under Sub-clause (i) to the District Collector within the time prescribed, shall be final:

Provided that where there has been an appeal under Sub-clause (i) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired, any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a Civil Court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under Sub-clause (i), or from the date of the expiry of the period prescribed under Sub-clause (i) for an appeal to the District Collector where there has been no such appeal.

- (e) Except as otherwise provided in Clause (d) an order of resumption passed under this Section shall not be liable to be questioned in any Court of law.

- (f) Where any inam or part of any inam is resumed under this Section, the Collector or the District Collector, as the case may be, shall by order, re-grant such inam or part—
 - (i) as an endowment to the religious institution concerned, or
 - (ii) in case of resumption on the ground that the religious institution has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment for such religious, educational or charitable institution as the Commissioner may recommend.
- (g) The order of re-grant made under Clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.
- (h) Nothing in this Section shall affect the operation of Section 40.

Notes

Section 41 of the Act deals with resumption and regrant of Inam granted for performance of any charity or service. In *Bheema Sena Rao v. Yella Reddi*, A.I.R 1961 S.C. 1350, it was held that even where temple had ceased to exist and hence service cannot be performed, there can be resumption of personal inam burdened with service.

Court Auction Purchaser

In *Sadagopan Ramaniya Jeer v. Sri Rangachari Swamigal*, (1974)2 M.L.J. 377, it was held that the restrictions imposed on voluntary transfer of Inam are not applicable in case of Court auction purchaser.

Lease by service Inam holder

In *Sri Ranganathaswami Devasthanam v. Subramanyam*, (2002)3 M.L.J. 585, it was held that when the competent authority under Inams Abolition Act granted patta to temple, temple would be the owner and hence service Inam holder cannot grant lease to a third party.

42. Office-holders and servants of religious institutions not to be in possession of jewels, etc., except under conditions.—

Notwithstanding anything contained in any scheme settled or deemed to have been settled under this Act or in any decree or order of a Court or any custom or usage to the contrary, no office-holder or servant of a religious institution or other person shall have the right to be in possession of the jewels or other valuables belonging to the religious institution except under such conditions and safeguards as ¹[the Commissioner] may, by general or special order, direct.

1. The words "the Commissioner" were substituted by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991, and subsequently the words "the Temple Administration Board" were substituted for the words "the Commissioner" by Tamil Nadu Act 39 of 1996.

43. '[The Commissioner] to sanction compromise of legal proceedings.—

No suit, application or appeal pending before a Court to which a religious institution is a party shall be withdrawn or compromised by the trustee of the institution except with the previous sanction of '[the Commissioner].

Notes

Section 43 of the Act deals with the Commissioner to sanction compromise of legal proceedings. In *Sangili v. Ramakrishnan*, A.I.R 1974 Mad.160, the Division Bench held that Section 43 is a salutary provision enacted for safeguarding the interests of a public religious institution for the benefit of the public as a whole and therefore the provisions contained therein are mandatory.

Non-compliance of the provision

Non-compliance of the provision would render resultant action in-operative and void, *Sangili v. Ramakrishnan*, A.I.R 1974 Mad.160.

Claims pending before Courts

Section 43 of the Act is enacted to prevent the trustees from bartering away the rights of the religious institutions by means of compromise or withdrawal of claims pending before the Courts. *Murugesu Chettiar v. Dawood*, (1984)2 M.L.J. 278.

See *Sangili v. Ramakrishnan* A.I.R 1974 Mad.160: (1974)1 M.L.J. 87: 87 L.W.3.

43-A. Appointment and duties of Executive Officers in temples under Maths.—

- (1) Notwithstanding anything contained in Section 45 or any other provision in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an Executive Officer for any temple under the control of a Math.
- (2) The Executive Officer shall be subject to the control of the trustee of the Math and shall exercise such powers and discharge such duties as may be prescribed.
- (3) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the Executive Officer.

Religious Institutions other than Maths or Specific Endowments attached thereto.**44. Sections 45 to 58 not to apply to Maths or specific endowments attached to Maths.—**

The provisions of Sections 45 to 58 shall not apply to Maths or specific endowments attached to Maths.

Notes

Section 44 of the Act deals with Sections 45 to 58 which are not to apply to Math or specific endowments attached to Maths.

1. The words "the Commissioner" were substituted by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991, and subsequently the words "the Temple Administration Board" were substituted for the words "the Commissioner" by Tamil Nadu Act 39 of 1996.

Section 44 says that the provisions of Section 45 to 58 shall not apply to Math or specific endowments attached to Maths.

45. Appointment and duties of Executive Officers.—

- (1) Notwithstanding anything contained in this Act, the Commissioner may appoint, subject to such conditions as may be prescribed, an Executive Officer for any religious institution other than a Math or a specific endowment attached to a Math.

¹[Explanation.—In this Section “Math” shall not include a temple under the control of a Math].

- (2) The Executive Officer shall exercise such powers and discharge such duties as may be assigned to him by the Commissioner:

Provided that only such powers and duties as appertain to the administration of the properties of the religious institution referred in Sub-section (1) shall be assigned to the Executive Officer.

- (3) The Commissioner may define the powers and duties which may be exercised and discharged respectively by the Executive Officer and the trustee, if any, of any religious institution other than a Math or a specific endowment attached to a Math.
- (4) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the Executive Officer.

Notes

Section 45 of the Act deals with appointment and duties of Executive Officers. Explanation to Sub-section (1) says that in this Section “Maths” shall not include a temple under the control of a Math.

Sub-section (4)

Sub-section (4) says that the Commissioner may suspend, remove, or dismiss the Executive Officer for good and sufficient cause.

Hereditary trustee and appointment of Executive Officer

In *Commissioner H.R. & C.E. v. Jothiramalingam*, A.I.R 1985 Mad. 341, the Division Bench held that ordinarily the hereditary trustee in charge of a temple is clothed with plenary powers in the matter of management and administration of the temple, and the power vested with the Commissioner to appoint Executive Officer to manage the temple being a very drastic one, it has to be exercised cautiously, reasonably, and fairly and though Sec. 45 (1) by its terms does not contemplate any notice or enquiry before exercising the power of appointing an Executive Officer, the principles of natural justice require such notice and opportunity to show cause against appointment of Executive Officer by the Commissioner.

Nagarajan v. Commissioner, H.R. & C.E., A.I.R 1971 Mad. 295; (1970) 2 M.L.J. 599; *Dorairaja Chettiar v. Commissioner H.R & C.E.* No.683 of 1970 dt. 17-6-1971; *Appadurai*

1. This explanation was added by Section 6 of the Tamil Nadu Act 50 of 1974.

Mudaliar v. Commissioner H.R. & C.E. No.4869 of 1968; *Ramachandran v. Commissioner H.R. & C.E.*, No.101 of 1969 dt. 26-2-69.

Notice to founder cum managing trustee

In *Sri Mahalaxmi Temple v. Commissioner H.R. & C.E.*, A.I.R 1993 Mad. 25, it was held that where the temple in question had been declared to be a public temple, rejecting the claim that it was a private one, a notice to the founder cum managing trustee in respect of appointment of Executive Officer for better administration was not necessary. The decision in *Commissioner H.R. & C.E. v. Jothiramalingam*, A.I.R 1985 Mad. 341, was explained and distinguished, *Nagarajan v. H.R. & C.E.*, (1970)2 M.L.J. 599, and *Roopalanga Chettiar v. Dy. Commissioner, H.R. & C.E.*, 97 L.W. 424, also had been referred to cannot be taken to confer an unguided and arbitrary power on the Commissioner. The power has got to be exercised in terms of the policy of the Act *i.e.* to provide for the administration and governance of the religious and charitable institutions and endowments under the State of Tamil Nadu.

Subramani v. Commissioner, H.R. & C.E., A.I.R 1976 Mad. 264. *Radhakrishnan v. Manickam*, (1974)2 M.L.J. 179.

Subject to such conditions as may be prescribed

In view of the language used in Sec.45 it is not possible to construe the words “subject to such conditions as may be prescribed” as being a condition precedent for the exercise of the power under Section 45 (1). If the conditions have been prescribed then, the power has to be exercised only subject to those conditions. But if the conditions are not prescribed, it cannot be said that the power cannot at all be exercised. The expression “as may be prescribed” occurring in the Section indicated that the rule making authority may or may not prescribe the conditions. *Subramani v. Commissioner H.R. & C.E.*, (1976)1 M.L.J. 281.

Good and sufficient cause

In *Velayudham v. A.C. H.R. & C.E.*, (1971)2 M.L.J. 333, it was held that Section 45 (4) enacts that the Commissioner may for good and sufficient cause suspend the Executive Officer and in the absence of any indication as to whether suspension is only by way of substantive punishment or suspension pending enquiry, it should be given its natural and liberal meaning for the purpose of giving effect to the provision.

Punitive action

In *Muthuswami Pillai v. Commissioner, H.R. & C.E.*, (1970)1 M.L.J. 352, it was held that the power to suspend, remove or dismiss an Executive Officer conferred and contemplated by Section 45 (4) of the Act is one to do so by way of punitive action or disciplinary action against the Executive Officer and the power to revoke or cancel an earlier order appointing an Executive Officer which will result in the removal of the Executive officer is not the one contemplated by that Section.

Show cause notice

Right to have notice before appointment of Executive Officer had been dealt with in *Sri Mahalaxmi Temple v. Commissioner, H.R. & C.E.* (1993)1 M.L.J. 266.

See *Commissioner H.R. & C.E. v. Jothiramalingam*, A.I.R 1985 Mad.341.; *Nagarajan v. Commissioner, H.R. & C.E.*, A.I.R 1971 Mad. 295

Temple of recent origin

In *Sri Mahalaxmi Temple v. Commissioner, H.R. & C.E.* (1993)1 M.L.J. 266, it was held that where temple in question is of a recent origin, office of trusteeship cannot be claimed to be hereditary.

Section 45

In *Kanyaka Parameswari Amman Temple and Charities Panruti v. Commissioner H.R. & C.E Department*, W.A. No. 372 of 1999, dated 21-3-2000, a Division Bench held that though the temple may be run by a religious denomination, yet if there was mismanagement, then an Executive Officer can be appointed.

¹[46. *Commissioner to publish list of certain institutions.*—

The Commissioner shall publish, in the prescribed manner, a list of the religious institutions whose annual income, as calculated for the purposes of the levy of contribution under Sub-section (1) of Section 92,—

- (i) is not less than ten thousand rupees but is less than two lakh rupees;
- (ii) is not less than two lakh rupees but is less than ten lakh rupees;
- (iii) is not less than ten lakh rupees,

and may, from time-to-time, modify such list in the prescribed manner:

Provided that the Commissioner shall not remove any institution from such list unless its annual income calculated as aforesaid has fallen below ten thousand rupees for three consecutive years:

Provided further that if the annual income of any such institution calculated as aforesaid has—

- (a) exceeded the limits specified in Clauses (i) and (ii); or
- (b) fallen below the limits specified in Clause (ii) or Clause (iii), for three consecutive years, the Commissioner may alter the classification assigned to such institution in the list and enter the same under the appropriate classification in the said list.]

²[46-A. ***]

47. *Trustees and their number and term of offices.*—

- (1) ³[(a) Where a religious institution included in the list published under Section 46 or in respect of which the Assistant Commissioner has no power to appoint trustees, has no hereditary trustee,—

1. Section 46 was substituted by Tamil Nadu Act 39 of 1996.

2. Section 46-A was inserted by Tamil Nadu Act 42 of 1978 and subsequently omitted by Tamil Nadu Act 46 of 1991.

3. Clause (a) was substituted by Tamil Nadu Act 39 of 1996.

- (i) in cases falling under Clause (i) of Section 46, the Joint Commissioner/Deputy Commissioner;
- (ii) in cases falling under Clause (ii) of Section 46, the Commissioner; and
- (iii) in cases falling under Clause (iii) of Section 46, the Government, shall constitute a Board of Trustees.

Provided that the Board of Trustees constituted under items (i) and (ii) of the Clause shall, subject to the provisions of Clause (c), consist of three persons appointed by the Joint Commissioner/Deputy Commissioner or the Commissioner, as the case may be, from among the panel of names of persons sent by the District Committee concerned under Sub-section (4) of Section 7-A of whom, one shall be a member of the Scheduled Castes or Scheduled Tribes:

Provided further that in addition to the persons appointed by the Joint Commissioner/Deputy Commissioner or the Commissioner under items (i) or (ii) of this Clause, as the case may be, the Government may nominate two persons who are qualified for appointments as trustees under this Act, as members of the said Board of Trustees, having regard to the following matters, namely:—

- (a) the interest of the public generally;
 - (b) the income and the properties of the religious institutions;
 - (c) the number of worshippers and importance of the religious institutions as a pilgrim centre; and
 - (d) such other matters as may be prescribed.]
- (b) in respect of all the incorporated and unincorporated Devaswoms in the transferred territory, the ¹[Government] shall constitute a single Board of Trustees;
 - (c) every Board of Trustees constituted under Clause(a) or Clause(b) shall consist of not less than three and not more than five persons, of whom one shall be a member of the Scheduled Castes or Scheduled Tribes:

Provided that ²[the Government, the Commissioner, the Joint Commissioner or the Deputy Commissioner], as the case may be, may, pending the constitution of such Board of Trustees under this Sub-section, appoint a fit-person to perform the functions of the Board of Trustees.

1. This word was substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the word "Government" by Tamil Nadu Act 46 of 1991.

2. Substituted for the words "the Temple Administration Board or the Temple Administration District Committee" by Tamil Nadu Act 39 of 1996.

Explanation.— For the purposes of this Sub-section, ¹[****] “Scheduled Castes” and “Scheduled Tribes” shall have the same meanings assigned to them respectively in Clauses (24) and (25) of Article 366 of Constitution.

²[(2) Where in the case of any institution included in the list published under Section 46 having a hereditary trustee or trustees, ³[the Government, the Commissioner or the Joint/Deputy Commissioner] after notice to such trustee or trustees and after such enquiry as ³[the Government, the Commissioner or the Joint/Deputy Commissioner], as the case may be, deems adequate, considers for reasons to be recorded, that the affairs of the institution are not likely to be properly managed by the hereditary trustee or trustees, ³[the Government, the Commissioner or the Joint/Deputy Commissioner] may, by order, appoint a non-hereditary trustee or such number of non-hereditary trustees, as may be considered necessary by ³[the Government, the Commissioner, or the Joint/Deputy Commissioner], as the case may be.

(3) Every trustee appointed under Sub-section (1) and subject to the result of an application, if any, filed under Sub-section (4), every non-hereditary trustee appointed under Sub-section (2) shall hold office for a term of ⁴[three years], unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by ³[the Government, the Commissioner or the Joint/Deputy Commissioner], as the case may be, or he otherwise ceases to be a trustee.

⁵[* * * * *]

(4) Where ³[the Government, the Commissioner or the Joint/Deputy Commissioner], by order, appoints a non-hereditary trustee or trustees, the hereditary trustee or trustees may, within thirty days of the receipt of the order, file an application to the Court to set aside or modify such an order:

Provided that the Court shall have no power to stay the order of ³[the Government, the Commissioner or the Joint/Deputy Commissioner], as the case may be, pending the disposal of the application.

⁶[(5) * * * * *]

1. The expression “and Sub-section (1) of Section 49” was inserted by Tamil Nadu Act 46 of 1991 and subsequently omitted by Tamil Nadu Act 39 of 1996.

2. Sub-section (2) was substituted by President’s Act 24 of 1976.

3. Substituted for the words “the Temple Administration Board or the Temple Administration District Committee” by Tamil Nadu Act 39 of 1996.

4. Substituted for the words “five years” by Tamil Nadu Act 19 of 1968.

5. *Proviso* was omitted by President’s Act 24 of 1976.

6. Sub-section (5) was omitted by President’s Act 24 of 1976.

Notes

Section 47 of the Act deals with Trustees and their number and term of offices. In *Area Committee Nagapattinam v. Kasinatha Padayachi*, A.I.R 1975 Mad.6, it was held that in view of the specific provision, scheme to elect trustees would be repugnant.

Sections 26 and 47 of the Act

In *Chockalingam Poosari v. Ramaswami Poosari*, A.I.R 1977 Mad.169, it was held by the Division Bench that while the expression “Board of Trustees ” in Section 26 (6) may apply to a Board of Trustees constituted under Section 47 (1) and (2) or in exercise of the power by the Hindu Religious and Charitable Endowments Board or the Commissioner to settle a scheme of management when the Board consists of hereditary trustees and Section 26 (6) will have no application to such hereditary trustees. The view in (1973)1 M.L.J. 320 was reversed by Division Bench.

Otherwise ceases to be a trustee

In *Venkatachalapathi v. Commissioner H.R. & C.E.*, (1969)1 M.L.J. 437, the meaning of “otherwise ceases to be a trustee” has been explained.

Non-listed temple

In *Valliammal v. Area Committee*, (1962)1 M.L.J. 320, it was held that Sections 47 (1) and 49 of the Madras Hindu Religious and Charitable Endowments Act, 1959, on a true interpretation of the language and in the light of the Legislative history do not empower an Area Committee to appoint non-hereditary trustee to a non-listed temple having hereditary Trustees.

In *Krishnan Chettiar v. Raman Chettiar*, (1962)1 M.L.J. 385, powers of Area Committee to appoint Trustees and limits thereof had been explained.

¹[47-A. Delegation of powers by Government.—

- (1) The Government may, by notification, authorise the Commissioner to exercise the powers vested in them under the second *proviso* to Clause (a) of Sub-section (1) of Section 47 or the second *proviso* to Sub-section (1) of Section 49, in respect of any religious institution.
- (2) The exercise of any power delegated under Sub-section (1) shall be subject to such restrictions and conditions as may be specified in the notification and subject also to control and revision by the Government.]

48. Chairman.—

- (1) In the case of a religious institution for which a Board of Trustees is constituted under Sub-section (1) of Section 47, the Board of Trustees shall, within such period as may be prescribed, elect one of its members to be its Chairman, and if no Chairman is elected within the period so

1. Section 47-A was originally inserted by Tamil Nadu Act 42 of 1978 and omitted by Tamil Nadu Act 46 of 1991. The said Section was again inserted by Tamil Nadu Act 39 of 1996.

prescribed, ¹[the Government, the Commissioner or the Joint/Deputy Commissioner], as the case may be, shall nominate the Chairman.

- (2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall, within such period as may be prescribed, elect one from among themselves to be the Chairman, and if no Chairman is elected within the period so prescribed, ¹[the Government, the Commissioner or the Joint/Deputy Commissioner], as the case may be, shall nominate the Chairman:

Provided that in the case of a religious institution—

- (i) having one hereditary trustee, such hereditary trustee alone shall be its Chairman; and
- (ii) having more than one hereditary trustee, one of such hereditary trustees alone shall be elected or nominated to be its Chairman.

- (3) A Chairman elected or nominated under Sub-section (1) or Sub-section (2) shall hold office for such period as may be prescribed.

²[49. *Power of ³[Assistant Commissioner] to appoint trustees and fit-persons.—*

- (1) In the case of any religious institution which is not included in the list published under Section 46 and is not a religious institution notified or deemed to have been notified under Chapter VI of this Act, the ³[Assistant Commissioner] shall have the same power to appoint trustees including fit-persons or constitute a Board of Trustees and is vested in ¹[the Government, the Commissioner or the Joint/Deputy Commissioner] in the case of a religious institution referred to in Clause (a) of Sub-section (1) or in Sub-section (2), as the case may be, of Section 47:

⁴[Provided that the Board of Trustees constituted under this Sub-section shall consist of three persons appointed by the Assistant Commissioner from among the panel of names of persons sent by the District Committee concerned under Sub-section (4) of Section 7-A:

Provided further that in addition to the trustees appointed by the Assistant Commissioner under this Sub-section, the Government may nominate two persons who are qualified for appointment as trustees under this Act as members of the said Board of Trustees, having regard to the following matters, namely:—

1. These words were substituted for the words "the Temple Administration Board or the Temple Administration District Committee" by Tamil Nadu Act 39 of 1996.

2. Section 49 was substituted by President's Act 24 of 1976.

3. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "Temple Administration District Committee".

4. These provisos were substituted by Tamil Nadu Act 39 of 1996.

- (a) the interest of the public generally;
- (b) the income and the properties of the religious institution;
- (c) the number of worshippers and importance of the religious institution as a pilgrim centre; and
- (d) such other matters as may be prescribed:

Provided also that notwithstanding anything aforesaid in this Sub-section, the Assistant Commissioner may, in the case of any such religious institution which has no hereditary trustee, appoint a single trustee].

- (2) The provisions of Sub-sections (3) and (4) of Section 47 and of Section 48 shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by ¹[the Assistant Commissioner] as they apply to the trustee or trustees appointed, or the Board of Trustees constituted, under Section 47.

²[49-A. *Existing trustees in the case of religious institutions first included in the list under Section 46 to cease to hold office—*

- (1) Notwithstanding anything contained in Sections 47, 48 and 49, where a religious institution in respect of which ¹[the Assistant Commissioner] has appointed trustees under Sub-section (1) of Section 49 is subsequently included in the list published under Section 46, the trustees aforesaid shall cease to hold office from the date of such inclusion.
- (2) In respect of the religious institution mentioned in Sub-section (1) ³[the Government, the Commissioner or the Joint/Deputy Commissioner], as the case may be, shall constitute a Board of Trustees in accordance with the provisions of Sub-section (1) of Section 47 and the trustees shall hold office for the term specified in Sub-section (3) of the said Section 47.]

⁴[49-B. *Power of Executive Officer and Chairman of Board of Trustees not to implement order or resolution of the trustee or Board of Trustees in certain cases.—*

- (1) Where an Executive Officer or a Chairman of Board of Trustees considers that an order or resolution passed by a trustee or the Board of Trustees—

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "Temple Administration District Committee".

2. Section 49-A was inserted by Tamil Nadu Act 46 of 1974.

3. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "Temple Administration Board or the Temple Administration District Committee".

4. Section 49-B was inserted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1998 (Tamil Nadu Act 37 of 1998), which came into force on 22nd January, 1999.

- (a) has not been passed in accordance with law;
 - (b) is in excess or abuse of the powers conferred on the trustee or the Board of Trustees by or under this Act, or by any other law;
 - (c) if implemented, is likely to cause financial loss to the institution or endowment, danger to human life, health or safety, or is likely to lead to a riot or breach of peace; or
 - (d) is not beneficial to the institution or endowment; the Executive Officer or the Chairman of Board of Trustees, as the case may be, may, without implementing such order or resolution, place the matter before the trustee or Board of Trustees along with a note pointing out the objections to the order or resolution and request the trustee or the Board of Trustees to reconsider the order or resolution.
- (2) The Executive Officer or the Chairman of Board of Trustees shall forthwith submit a report of the action taken by him under Sub-section (1) to the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be.
- (3) (a) Where the order or resolution is placed for reconsideration under Sub-section (1), the trustee or the Board of Trustees shall reconsider the order or resolution having due regard to the objections contained in the note and pass such further order or resolution as he or it may deem fit. A copy of every such further order or resolution shall be sent forthwith to the Commissioner, Joint Commissioner, Deputy Commissioner or the Assistant Commissioner, as the case may be, who may pass such order as he deems fit.
- (b) Where after the expiry of sixty days from the date on which the order or resolution was placed for reconsideration under Sub-section (1), the trustee or the Board of Trustees fails to pass further order or resolution as required under Clause (a), the Commissioner, Joint Commissioner, Deputy Commissioner or the Assistant Commissioner, as the case may be, may pass such order as he deems fit;
- (c) Every order passed by the Commissioner, Joint Commissioner, Deputy Commissioner or the Assistant Commissioner, as the case may be, under Clause (a) or Clause (b) shall be final and binding on the trustee or the Board of Trustees and the Executive Officer.]

50. Power under ¹[Sections 47, 49 and 49-A] to be exercisable notwithstanding provisions in scheme.—

The power to appoint trustees under Section 47 or Section 49 ²[or Section 49-A] shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provision to the contrary.

³[51. Claims of certain persons to be trustees.—

- (a) The Joint Commissioner or the Deputy Commissioner in preparing a panel of names of persons suitable for appointment as non-hereditary trustee or trustees, as the case may be, under Sub-section (4) of Section 7-A; or
- (b) The Government, the Commissioner, the Joint Commissioner, the Deputy Commissioner or the Assistant Commissioner in making appointments of trustees under Section 47 or Section 49 or Section 49-A, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly intended or maintained.]

52. Non-hereditary trustees holding office on the date of the commencement of the Act.—

Every non-hereditary trustee lawfully holding office on the date of the commencement of this Act, shall be deemed to have been duly appointed as such trustee under this Act for the residue of his term of office on the date of such commencement.

53. Power to suspend, remove or dismiss trustees.—

- (1) In this Section, the expression, “appropriate authority” shall, unless the context otherwise requires, means—

- ⁴[(a) in respect of any trustee of any religious institution included in the list published under Clause (iii) of Section 46, ⁵[the Government];
- ⁶[(b) in respect of any trustee of any religious institution included in the list published under Clause (ii) of Section 46; the Commissioner];
- (c) in respect of any trustee of any religious institution included in

1. This expression was substituted for the expression “Section 47 and 49” by Section 3(a) of the Tamil Nadu Hindu Religious and Charitable Endowments (Fifth Amendment) Act, 1974 (Tamil Nadu Act 46 of 1974).

2. This expression was inserted by Section 3(b) by *ibid*.

3. Section 51 was substituted by Tamil Nadu Act 39 of 1996.

4. Clauses (a) to (d) were substituted by Tamil Nadu Act 42 of 1978.

5. These words were substituted by Tamil Nadu Act 39 of 1996 for the words “the Temple Administration Board” which in turn were substituted for the words “the Government” by Tamil Nadu Act 46 of 1991.

6. Clause (b) was omitted by Tamil Nadu Act 46 of 1991 and reinserted by Tamil Nadu Act 39 of 1996.

the list published under Clause (i) of Section 46 and in respect of any hereditary trustee of any religious institution not included in the list published under the said Section 46, ¹[the Joint/Deputy Commissioner].

- (d) in respect of any non-hereditary trustee of any religious institution not included in the list published under Section 46 ²[the Assistant Commissioner].

³[(1-A) Notwithstanding anything contained in Sub-section (1) for the purpose of this Section, the Government shall also be the appropriate authority in respect of any trustee of any religious institution.]

- (2) The appropriate authority may suspend, remove or dismiss any trustee, if he—

- (a) ceases to profess the Hindu religion; or
- (b) fails to discharge the duties and perform the functions of a trustee in accordance with the provisions of this Act or the Rules made thereunder; or
- (c) disobeys the lawful orders issued under the provisions of this Act or the Rules made thereunder by the Government, ⁴[*****] the Commissioner, ⁵[or the Joint Commissioner or Deputy Commissioner] or the Assistant Commissioner; or
- (d) continuously neglects his duty or commits any malfeasance, misfeasance or breach of trust, in respect of the trust; or
- (e) misappropriates or deals improperly with the properties of the institution; or
- (f) is of unsound mind or is suffering from other mental defect or infirmity which would render him unfit to perform the functions and discharge the duties of a trustee or is suffering from leprosy or other loathsome disease; or
- (g) is sentenced by a Criminal Court for an offence involving moral delinquency, such sentence not having been reversed or the offence pardoned; or
- (h) is an undischarged insolvent; or
- (i) is interested in a subsisting lease of any property of, or contract made with or any work being done for, the religious institutions or is in arrears of any kind due by him to the religious institution; or

1. Substituted for the words "the Temple Administration District Committee" by Tamil Nadu Act 39 of 1996.

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration District Committee".

3. Sub-section (1-A) was inserted by Tamil Nadu Act 25 of 1995.

4. The words "the Temple Administration Board", "the Temple Administration District Committee" was substituted by Tamil Nadu Act 46 of 1991 and 19 of 1993, were omitted by Tamil Nadu Act 39 of 1996.

5. Substituted for the words "or Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

- (j) acts adversely to the interests of the institution; or
¹[(jj) wilfully fails to pay the contribution payable under Sub-section (1) of Section 92 or the further sum payable under Sub-section (2) of Section 92 within the time allowed by or under Clause (b) of Sub-section (2) of Section 94; or
- (k) absents himself from three consecutive meetings of the trustees.
- (l) in the case of a Chairman of the Board of Trustees or a Managing or Executive trustee, refuses, or delays to, or does not, hand over charge to his successor.

Explanation.—A meeting adjourned for want of quorum shall be deemed to be a meeting for the purposes of this Clause; or

- (3) When it is proposed to take action under Sub-section (2), the appropriate authority shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with reasons therefor.
- (4) Pending the disposal of the charges framed against the trustee, the appropriate authority may place the trustee under suspension and appoint a fit-person to discharge the duties and perform the functions of the trustee.
- (5) A trustee who is aggrieved by an order passed under Sub-section (2), may within one month from the date of the receipt by him of the order of suspension, removal, or dismissal, appeal against the order—
 - (i) where the order has been passed by ²[the Commissioner, to the Government];
 - (ii) where the order has been passed by ³[the Joint Commissioner or Deputy Commissioner, to the Commissioner]; and
 - ⁴[(iii) where the order has been passed by the Assistant Commissioner, to the Joint/Deputy Commissioner].

⁵[(5-A) A Trustee who is aggrieved by an order passed by the Government

1. This Clause was inserted by Section 22 (ii) (b) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendments) Act, 1968 (Tamil Nadu Act 19 of 1968).

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words “the Temple Administration Board to the Government” which in turn were substituted for the words “the Commissioner to the Government” by Tamil Nadu Act 46 of 1991.

3. Substituted for the words “the Temple Administration District Committee, to the Temple Administration Board” by Tamil Nadu Act 39 of 1996.

4. Original Clause (iii) was omitted by Tamil Nadu Act 46 of 1991 and the above Clause (iii) was inserted by Tamil Nadu Act 39 of 1996.

5. Sub-section (5-A) was inserted by Tamil Nadu Act 25 of 1995.

under Sub-section (2) may, within ninety days from the date of the receipt of such order by him, appeal against such order to the High Court].

- (6) A hereditary trustee aggrieved by an order passed by '[the Commissioner] or the Government under Sub-section (5) may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order.

Notes

Section 53 of the Act deals with power to suspend, remove, or dismiss trustees. In *S.V.R. Padayachi v. Dy. Commissioner, H.R. & C.E.* (1973)1 M.L.J. 329, it was held that appropriate authority can enquire into, the hereditary Trustee absention himself from meetings and the effect thereof.

Sub-section (4)

Sub-section (4) says that pending the disposal of the charges framed against the trustee, the appropriate authority may place the trustee under suspension and appoint a fit-person to discharge the duties and perform the functions of the trustee.

Palaniappa Pandaram v. Commissioner, H.R. & C.E., (1972)2 M.L.J. 276.

Next in line of succession

In *Karthikeyan v. Dy. Commissioner, H.R. & C.E.*, (1998)1 L.W. 148, it was held that when a hereditary trustee was kept under suspension pending enquiry not charges, a fit-person can be appointed and claim of next line of succession need not be considered at that time.

Power to appoint fit-person

The power to appoint a fit-person under Section 53 (4) of the Act is discretionary power and High Court will not ordinarily interfere with the discretion exercised in this regard.

N H M Pandian v. D.C. H.R. & C.E., (1966)1 M.L.J. 288.

Filling up of vacancies

In *Karthikeyan v. Joint Commissioner H.R. & C.E.*, (1998)1 M.L.J. 365, it was held that Section 54 provides for filling up of vacancies in the office of the hereditary trustee, when a vacancy arises, permanent or temporary, and this provision cannot be read into Section 53 (4) nor is a right conferred on the petitioner for being appointed as a fit-person.

54. Filling up of vacancies in the offices of hereditary trustee.—

- (1) When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.
- (2) When a temporary vacancy occurs in such an office by reason of suspension of the hereditary trustee under Sub-section (2) of Section 53, the next in the line of succession shall be entitled to succeed and perform the functions of the trustee until his disability ceases.

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

- (3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office; or,

when such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian; or

when a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for performing the functions of the trustee,

¹[the Joint Commissioner or the Deputy Commissioner, as the case may be,] may appoint a fit-person to perform the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as ¹[the Joint Commissioner or the Deputy Commissioner as the case may be], may direct.

Explanation.—In making any appointment under this Sub-section, ¹[the Joint Commissioner or the Deputy Commissioner as the case may be], shall have due regard to the claims of the members of the family, if any, entitled to the succession.

- (4) Any person aggrieved by an order of ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], under Sub-section (3) may, within one month from the date of receipt of the order by him, appeal against the order to the Commissioner.

- (5) Nothing in this Section shall be deemed to affect anything contained in the ²[Tamil Nadu] Court of Wards Act, 1902 (²[Tamil Nadu] Act I of 1902).

55. Appointment of office-holders and servants in religious institutions.—

- (1) Vacancies, whether permanent or temporary, among the office-holders or servants of a religious institution shall be filled up by the trustee ³[in all cases].

⁴[*Explanation.*—The expression “office-holders or servants” shall include archakas and pujaries.]

- ⁵[(2) No person shall be entitled to appointment to any vacancy referred to in Sub-section (1) merely on the ground that he is next in the line of

1. Substituted for the words “the Deputy Commissioner” by Tamil Nadu Act 38 of 1995.

2. Substituted for the word “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

3. These words were substituted for the words “in cases where the office or service is not hereditary” by Section 2(1)(i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970 (Tamil Nadu Act 2 of 1971).

4. This explanation was added by Section 2(1)(ii) *ibid*.

5. This Sub-section was substituted for the following Sub-section (2) by Section 2(2), *ibid*:—

“(2) In cases where the office or service is hereditary, the person next in the line of succession shall be entitled to succeed.”

succession to the last holder of the office.]

¹[(3) * * *]

- (4) Any person aggrieved by an order of the trustee under ²[Sub-section (1)] may, within one month from the date of the receipt of the order by him, appeal against the order to ³[the Joint Commissioner or the Deputy Commissioner, as the case may be].

56. Punishment of office-holders and servants in religious institutions.—

- (1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall ⁴[* * *] be controlled by the trustee and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.
- (2) Any office-holder or servant punished by a trustee under Sub-section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to ³[the Joint Commissioner or the Deputy Commissioner, as the case may be.]

⁵[(3) * * *]

Notes

Section 56 of the Act deals with punishment of office-holders and servants in religious institutions.

Resolution by Board of Trustees

In *Dakshinamurthi Gurukkal v. State of Tamil Nadu*, (1979)2 M.L.J. 406, where hereditary Murali Archaka was suspended by Executive Officer and charges were framed which were denied by the petitioner and he was not willing to participate in enquiry but however there was no proof of passing any resolution by Board of Trustees and no oral evidence was set in, nor finding was recorded that charges were proved, it was held that dismissal of petitioner by Executive Officer is in violation of principles of natural justice.

Punishment of servants of temple

In *Chinnaswamy Thevar v. Executive Officer*, (1969)1 M.L.J. 450, it was held that under Section 56 of the Act the servants of the temple, are punishable only by the trustees of the temple and not by the Executive Officer of the temple.

1. Sub-section (3) omitted by *ibid*.

2. This expression was substituted for the expression "Sub-section (3)" by Section 2(4) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970 (Tamil Nadu Act 2 of 1971).

3. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

4. The words "whether the office or service is hereditary or not" were omitted by Section 3(1) of the Tamil Nadu Act 2 of 1971.

5. Sub-section (3) was omitted by Section 3(2) of the Tamil Nadu Act 2 of 1971.

57. Power to fix fees for services, etc., and to determine their apportionment.—

Notwithstanding anything contained in any scheme settled or deemed to have been settled under this Act or any decree or usage to the contrary, the trustee of a religious institution shall have power, subject to such conditions as ¹[the Commissioner] may, by general or special order, direct, to fix fees for the performance of any service, ritual or ceremony in such religious institution and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of such religious institution.

Notes

Section 57 of the Act deals with power to fix fee for services etc., and to determine their appointment.

Fixation of fee and variation of fees for services of Archakas

Section 57 of the Act contemplates power to fix fees for services, etc., and to determine the portion of such fees payable to Archakas or other office-holders or servants of religious institutions. If there is to be a variation whether it is to be an increase or decrease, the concerned persons must be heard. *Sivananda Gurukul v. Chairman, Board of Trustees, Subramaniaswami Devasthanam v. Elumalai*, (1985)1 M.L.J. 140.

Mismanagement and malpractice

In *Venkatraman v. Thangappa*, (1972)1 M.L.J. 325, it was held that in an application under Section 57 of the Act for a declaration that plaintiffs are the hereditary trustees, the consideration that the plaintiffs are not fit-persons to be the trustees on the basis of their mismanagement and malpractice is not relevant.

²[58. Fixing of standard scales of expenditure.—

- (1) The trustee of a religious institution shall submit to the Assistant Commissioner if the institution is not included in the list published under Section 46 and to the Commissioner, if the institution is so included, within three months from the date of commencement of this Act, or the date of the inclusion of the institution in the list aforesaid or within such further time as may be allowed by the Assistant Commissioner or the Commissioner, as the case may be, proposals for fixing the *dhittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with such institution or the proportions in which the income or other property of the institution may be applied to such objects:

Provided that this Sub-section shall not apply to any institution in respect of which proposals have been submitted to the Assistant Commissioner or the Commissioner, as the case may be, before the date of commencement of this Act.

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

2. Section 58 was substituted by Tamil Nadu Act 39 of 1996.

- (2) The trustee shall publish such proposals at the premises of the institution and in such other manner as may be required by the Assistant Commissioner or the Commissioner, as the case may be, together with a notice stating that, within one month from the date of such publication, any person having interest may submit objections or suggestions to the Assistant Commissioner or the Commissioner.
- (3) After the expiry of the said period, the Assistant Commissioner or the Commissioner shall, after considering any objections and suggestions received, pass such order as he may think fit on such proposals, having regard to the established usage of the institution and its financial position and a copy of the order shall be communicated to the trustee. The order of the Assistant Commissioner or the Commissioner shall be published in the prescribed manner.
- (4) Against an order passed by the Assistant Commissioner under Sub-section (3), the trustee or any person having interest may, within one month from the date of the receipt of the order by the trustee, appeal to the Joint or Deputy Commissioner and if the trustee or such person is aggrieved by the order of the Joint or Deputy Commissioner, he may within one month from the date of the receipt of such order appeal to the Commissioner.
- (5) The trustee shall scrutinize the particulars of *dhittam* or scale of expenditure every three years and submit to the Assistant Commissioner or the Commissioner, as the case may be, proposals for altering the *dhittam* or scale of expenditure and the provisions of Sub-sections (2), (3) and (4) shall apply in relation to the alteration of such *dhittam* or scale of expenditure as they apply in relation to the fixing of *dhittam* or scale of expenditure:

Provided that the Assistant Commissioner or the Commissioner may, at any time on his own motion for reasons to be recorded in writing, direct the trustee to alter the *dhittam* or scale of expenditure and the procedure for such alteration shall be the same as laid down in this Section.]

CHAPTER IV MATHS

59. *Suit for removal of trustee of Math or specific endowment attached thereto.*—

- (1) ¹[The Commissioner] or any two or more persons having interest and having obtained the consent in writing of ¹[the Commissioner], may institute a suit in the Court to obtain a decree for removing the trustee of a Math or a specific endowment attached to a Math for any one or more of the following reasons, namely:—

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

- (a) the trustee being of unsound mind;
- (b) his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee;
- (c) his having ceased to profess the Hindu religion or the tenets of the Math;
- (d) his conviction for any offence involving moral delinquency;
- (e) breach by him of any trust created in respect of any of the properties of the religious institution;
- (f) waste of the funds or properties of the institution or the wrongful application of such funds or properties for purposes unconnected with the institution;
- (g) the adoption of devices to convert the income of the institution or of the funds or properties thereof into "Pathakanika" ;
- (h) leading an immoral life or otherwise leading a life which is likely to bring the office of head of the Math into contempt;
- (i) persistent and wilful default by him in discharging his duties or performing his functions under this Act or any other law.

- (2) Where ¹[the Commissioner] refuses to give consent under Sub-sec. (1), the party aggrieved may, within three months from the date of the receipt of the order by him, appeal to the Government who may, after making such inquiry as they may consider necessary, confirm the order of ¹[the Commissioner] or direct ¹[the Commissioner] to give ²[his consent] in writing.

Notes

Chapter IV deals with Maths and Section 59 of the Act deals with suit for removal of trustee of Math or specific endowments attached thereto.

Maths

See undernoted decisions

Vidya Varuthi v. Baluswami, A.I.R. 1922 P.C. 123.; *Vidyapurna v. Vidyamidhi*, (1904) 27 Mad. 435; *Ram Prakash Das v. Ananda Das*, A.I.R. 1916 P.C. 256. *Sammantha v. Selappa*, (1879)2 Mad.175.; *Swami Harbansa Charitable v. State*, A.I.R. 1981 M.P. 82.; *Mawappa v. Putiaramaya*, A.I.R. 1958 Mys. 93.; *Raghavendra Swami Math v. Board of Commissioners*, *Kailasam v. Nataraja*, A.I.R. 1957 A.P. 150; (1910)33 Mad. 265.; *Arunachalam v. Venkatachalapathi*, A.I.R. 1919 P.C. 62.; *Sitaraman v. H.R.E Board*, A.I.R. 1937 Mad.106.; *Govinda v. Ramachandran*, A.I.R. 1925 Cal.1107.; *Laxmi Narayan v. State*, A.I.R. 1978 Pat. 330. *Satyacharan Sarkar v. Mahanta Rudrananda Giri*, A.I.R. 1953 Cal. 756.

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "its consent" which in turn were substituted for the words "his consent" by Tamil Nadu Act 46 of 1991.

In *Thiruvambala Desikar v. Manickavachaka Desikar*, A.I.R. 1917 Mad.578, it was held that the practice for the pandara sannadhi or Head of the Maths is to nominate and ordain a Junior Pandara Sannadhi who acts as a co-auditor during the lifetime of the senior and succeeds him after his death and such right connotes be deprived except for grave cause.

Where allegation is that Madathipathi is guilty of misconduct, a suit for removal can be filed.

Ayira Vysia Madam v. Sankara Subramanyam, A.I.R. 1990 Mad. 76.

In *Gynana Sambanda Pandara Sannadhi v. Kandasami Thambiran*, (1887)10 I.L.R. Mad.375, it was held that in legal parlance Math connotes a monastic constitution presided over by a superior and established and maintained for the use and benefit of Section belonging to a particular order who generally are disciplines or co-disciplines of the superior.

In *Gireedhari Dass v. Nanda Kishore Dass*, (1866-67) 11 Moo. and App. 405, their Lordships of the Privy Council observed that the only law these Mahants and their offices functions and duties, is to be found in custom and practice which is to be proved by testimony.

In *Ram Prakash Das v. Anand Das*, A.I.R. 1916 P.C. 256, it was held that the Mahant is the head of the institution, he manages the property of the institutions, he administers its affairs and the whole assets are vested in him as the owner thereof in trust for the institution itself.

In *Krishna Singh v. Mathura Ahir*, A.I.R. 1980 S.C. 707, it was observed that a Math is an institutional sanctum presided over by a superior who combines in himself the dual office of being the religious or spiritual head of the particular cult or religious fraternity and of the manager of the secular properties of the institution of the Math.

In *Sri. Mahalinga Thambiran v. Arul Nandi Thambiran*, A.I.R. 1974 S.C. 199, it was held that succession to the office of Mahant or Head of a Math is to be regulated by the custom of the particular Math and that the power of nomination is a concept pertaining to the law of Hindu religious endowments.

In matters of religions, right of management given to a religious body is a guaranteed fundamental right which no Legislature can take away.

See *Ratilal Panachand Gandhi v. State of Bombay*, A.I.R. 1954 S.C. 388: (1954)1 M.L.J. 718; *Commissioner Hindu Religious Endowments, Madras v. Sri. Lakshmindra Thirtha Swamiar of Sri Sirur Math*, A.I.R. 1954 S.C. 282: (1954)1 M.L.J. 596.; *Tulkayat Sri Govindlaljee Maharaj v. State of Rajasthan*, A.I.R. 1963 S.C. 1638: (1964)1 S.C.R. 561.

Mahant

See *Gireedharee Dass v. Nanda Kishore Dass*, (1867) 11 MIA 405 (P.C.); *Vidya Purna v. Vidyantidhi*, (1904)27 Mad.435; *Krishnagiri v. Sridhar*, A.I.R. 1922 Bom.202.; *Muthu Ramalingam v. Periyanna* (1874)11 I A 209 (P.C.); *Ramalinga v. Vythilinga*, (1893) 20 I.A 150 (P.C.); *Ram Prakash Das v. Ananda Das*, A.I.R. 1916 P.C. 256.; *Sethurama Swamiar v. Meruswamiar*, A.I.R. 1917 P.C. 190.; *Nataraja v. Kailasam*, A.I.R. 1921 P.C. 84.; *Krishna Singh v. Mathura Ahir*, A.I.R. 1980 S.C. 707; *Satnam Singh v. Bhagwan Singh*, A.I.R. 1938 PC 216; *Thirwarbala Desikar v. Chinapandaram*, A.I.R. 1917 Mad. 578.; *Haridas Gangadas v. Ramdas*, A.I.R. 1931 Bom.79.; *Raghunath Das v. Ganesh Das*,

A.I.R. 1932 All.603.; *Amar Prakash v. Prakash Nand*, A.I.R. 1979 S.C. 845.; *Sital Das v. Sarit Ram*, A.I.R. 1954 S.C. 606; *Manathuninatha Desikar v. Sundaralingam*, A.I.R. 1971 Mad.1.; *Kanchi Sastrulu v. Venkateswara Rao*, A.I.R. 1959 A.P. 232; *Jwala Das v. Pirsant Das*, A.I.R. 1930 P.C. 245.; *Ramcharan v. Gobinda*, A.I.R. 1929 P.C. 65; *Veerappa Chetti v. Thegachmi Naicker*, A.I.R. 1946 Mad.5.

Satisfactory Evidence

When a dedication to a charity is sought to be established in absence of an instrument or grant, the law requires that such dedication be established by cogent and satisfactory evidence of conduct of the parties and user of the property which show the extinction of the private secular character of the property and its complete dedication to charity. It must be proved that the donor intended to divest himself of his ownership in the dedicated property.

Kuldip Chand v. A.G. to Government of H.P., A.I.R. 2003 S.C. 1685; 2003 (5) S.C.C. 46.

60. Arrangements when vacancies occur.—

- (1) When a vacancy occurs in the office of the trustee of a Math or specific endowment attached to a Math and there is a dispute in respect to the right of succession to such office, or
when such vacancy cannot be filled up immediately, or when the trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or
when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to perform the functions of the trustee, the ¹[Assistant Commissioner] may take such steps and pass such order ²[as he thinks] proper for the temporary custody and protection of the endowments of the Math or of the specific endowment, as the case may be, and shall report the matter forthwith to the ³[Commissioner].
- (2) Upon the receipt of such report, if the ³[Commissioner], after making such inquiry ⁴[as he deems] necessary, is satisfied that an arrangement for the administration of the Math and its endowments or of the specific endowment, as the case may be, is necessary,⁵[he shall] make such

1. Substituted for the words "Assistant Commissioner" by the words "District Committee" by Tamil Nadu Act 46 of 1991, and the words "District Committee" were substituted by the words "Temple Administration District Committee" by Tamil Nadu Act 19 of 1993, and subsequently the words "Temple Administration District Committee" were substituted by the words "Assistant Commissioner" by Tamil Nadu Act 39 of 1996.

2. The words "as he thinks" were substituted for the words "as it thinks" by Tamil Nadu Act 46 of 1991 and the words "as it thinks" were substituted by the words "as he thinks" by Tamil Nadu Act 39 of 1996.

3. Substituted for the words "the Commissioner" by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991 and the words "the Temple Administration Board" were substituted by the words "Commissioner" by Tamil Nadu Act 39 of 1996.

4. Substituted for the words "as he deems" by the words "as it deems" by Tamil Nadu Act 46 of 1991 and the words "as it deems" were substituted by the words "as he deems" by Tamil Nadu Act 39 of 1996.

5. Substituted for the words "he shall" by the words "it shall" by Tamil Nadu Act 46 of 1991, and the words "it shall" were substituted by the words "he shall" by Tamil Nadu Act 39 of 1996.

arrangements ¹[as he thinks fit] until the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.

- (3) In making any such arrangement, ²[the Commissioner] shall have due regard to the claims of the disciples of the Math, if any.
- (4) Nothing in this Section shall be deemed to affect anything contained in the ³[Tamil Nadu] Court of Wards Act, 1902 (³[Tamil Nadu] Act I of 1902).

Scope

Section 60 of the Act deals with arrangements when vacancies occur. See *Babacharan Dass v. Mahant Baba Laxman Dass*. A.I.R. 2000 S.C. 2610.

61. *Fixing of standard scales of expenditure.*—

- (1) The trustee of every Math or specific endowment attached to a Math may, from time-to-time, submit to ²[the Commissioner] proposals for fixing the *dhittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with the institution or the proportions in which the income or other property of the institution may be applied to such objects.
- (2) The trustee shall publish such proposals at the premises of the Math and in such other manner as ²[the Commissioner] may direct, together with a notice stating that, within one month from the date of such publication, any person having interest may submit suggestions to ²[the Commissioner].
- (3) If on a scrutiny of such proposals and any suggestions made by persons having interests, it appears to ²[the Commissioner] that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, ²[the Commissioner] may call for the remarks of the trustee and if after considering the same, ²[the Commissioner] is of the opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure, ⁴[he shall] submit the case to the Government who shall pass orders thereon, and such orders shall be final.

1. These words were substituted by the Tamil Nadu Act 39 of 1996 for the words "as it thinks fit" which in turn were substituted for the words "as he thinks fit" by Tamil Nadu Act 46 of 1991.

2. Substituted for the words "the Commissioner" by the words "the Temple Administration Board" by Tamil Nadu Act 46 of 1991 and the words "the Temple Administration Board" were substituted by the words "Commissioner" by Tamil Nadu Act 39 of 1996.

3. Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

4. Substituted for the words "he shall" by the words "it shall" by Tamil Nadu Act 46 of 1991, and the words "it shall" were substituted by the words "he shall" by Tamil Nadu Act 39 of 1996.

62. Power to spend Pathakanika.—

- (1) The trustee of a Math shall keep regular accounts of receipts of "Pathakanika" that is to say, any gift of property or money made to him as the head of the Math and shall be entitled to spend the said "Pathakanika" in accordance with the customs and usages of the institution.
- (2) Such gifts of property or money as are not spent by the trustee during his tenure of office in accordance with the custom and usage of the institution shall form part of the funds of the Math.

Notes

Section 62 of the Act deals with power to spend Pathakanika. See *Alangadu Immudi Aghora Sivacharya Ayira Vysia Mutt, Nerinjipettai v. Sankara Subramaniam*, A.I.R. Vol. 77, 1990 March Part 915, Mad. Pg. 76.

Period of limitation for filing suit

When an appeal has been preferred to the Commissioner against the order of the Joint Commissioner/Deputy Commissioner, the period of limitation for filing the suit under Sec. 62 of the Act would start from the date of the order of Commissioner on appeal and not from the date of the order of the Deputy Commissioner which had been suspended by the order of the Commissioner, *Venkataraman v. Thangappa*, (1972) 1 M.L.J. 325.

Pathakanikas

Section 62 of the Act does not apply to padakanikas to the Mahant of a Math personally i.e. as a personal gift to him and the Section would cover only padakanikas tendered to him as the head of the Math. *His Holiness Sri Vanamamalai Ramanuja Jeer Swamigal Sri Vanamamalai Math v. A.C. - H.R. & C.E.*, (1965) 1 M.L.J. 399.

CHAPTER V**INQUIRIES****63. ¹[Joint Commissioner or Deputy Commissioner] to decide certain disputes and matters.—**

Subject to the rights of suit or appeal hereinafter provided, [the Joint Commissioner or the Deputy Commissioner, as the case may be], shall have power to inquire into and decide the following disputes and matters:—

- (a) whether an institution is a religious institution;
- (b) whether a trustee holds or held office as a hereditary trustee;
- (c) whether any property or money is a religious endowment;
- (d) whether any property or money is a specific endowment;
- (e) whether any person is entitled, by custom or otherwise, to any

1. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;

- (f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses; and
- (g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.

Notes

Section 63 (a)

The character of the suit temple, that it was a public temple was already decided in 1912 by the High Court, hence the present claim to the contrary is barred by *res judicata*. The forefathers of the plaintiffs had admitted that the temple was public temple under the control of the Department. The temple has a prakaram and compound wall. There is public worship in large numbers. Urchavams are conducted. Archakas are appointed. The temple has a hundial under the inspection of the Department.

See *The Commissioner H.R. & C.E (A) Department, Madras v. Arulmighu Arasadi Karpaga Vinayagar Temple, Madras now its Trustee C.S.Mani Mudaliar*, (2003)3 M.L.J. 161.

Section 63 (b)

On the question whether the plaintiffs were entitled for a declaration that they are the poojaris cum hereditary trustees of the temple, neither the genealogy nor any other evidence proved their case and hence they were not entitled to any declaration. Value of the genealogy in proving hereditary trusteeship discussed. *Dy. Commissioner (Judicial) H.R. & C.E. (A) Department Madras and another v. M. Perumal and others*, (2003)3 M.L.J.151.

There is nothing illegal in the hereditary poojariship and Trusteeship vesting in the same individuals, especially in the case of small village temples with meagre income. There is nothing inconsistent with the hereditary trusteeship being vested in one family whose members were also poojaris alongwith the members of the other families in the village. *Muthuswami Gurukkal v. Ayyaswami Thevar and 16 others*, (1961)2 M.L.J.560; *Balu Gurukkal v. Commissioner H.R. & C.E* (1964)1 M.L.J.384.

Section 63 (c)

Chapter V deals with inquiries and Section 63 of the Act deals with Joint Commissioner or Deputy Commissioner to decide certain disputes and matters. Scope and ambit of Section 63. See *Mookka Velan v. Baluchamy*, (1977)2 M.L.J. 258. *Santhana Gopala Chettiar*

v. Seetharama Chettiar, (1974)1 M.L.J. 21. *Commissioner H.R. & C.E. v. Sudarasan Commissioner*, (2000)3 L.W.468. *Nagaraja Udayar, v. H.R. & C.E.* (2003)1 M.L.J. 288. See *Jagannath Temple v. Chinthamani*, A.I.R. 1997 S.C. 3839. *Devaki v. Endowments Dept*, A.I.R. 1997 Mad.378.

Composite Endowment

In the case of composite endowment at best it can be said that under Section 63, the Deputy Commissioner has power to make an allocation between the religious and secular purposes but that does not mean that the jurisdiction of the Civil Court in framing a scheme is excluded. *Rajeevalochanchar v. Ramachar*, A.I.R. 1988 Mad. 227.

Order of Assistant Commissioner negating ownership of temple

In *RVE Venkatachala Gounder v. Arulmigu Visweswara Swami and VP Temple*, A.I.R. 2003 S.C. 4548; (2003) 8 S.C.C. 752, it was held that though the order of Assistant Commissioner negating ownership of temple *per-se* is not evidence of title of the other party, it is relevant as evidence to show that temple agitated the question but failed to prove its claim to the said property.

Temple whether denominational or not

Under Sec. 63 (a) of the Act, the power of Deputy Commissioner/Joint Commissioner is confined to a decision of the question whether an institution is a religious institution. No power is conferred under Sec. 63 on the Deputy Commissioner / Joint Commissioner to go into the question, the temple is a denominational one or not.

Sections 63 and 70 of the Act

In *Duraikannu v. Natesa Pillai* (1978)1 M.L.J. 296, it was held that Section 70 of the Act provides that any party aggrieved by an order passed by the Commissioner among others under Section 63 which is the only relevant provision, may within ninety days from the date of the receipt of such order by him institute a suit in the Court against such order and the period of ninety days commences from the date of the receipt of the order.

Right to be in Joint management as joint hereditary trustees

Where the plaintiffs had already established their rights to be in management of a private temple as hereditary trustees under an earlier decree their later suit for a permanent injunction restraining the defendant from interfering with their right to be in Joint management as Joint hereditary Trustees was held to be not barred under Sec. 63 read with Sec. 108 of the Act, *Mokka Velar v. Baluchami*, (1977)2 M.L.J. 258.

Trusteeship and religious institution

The Division Bench in *Commissioner H.R. & C.E. v. Vaithinatha Gurukkal* (1974) 1 M.L.J. 406, held that under Section 57 (b) of the 1951 Act or Section 63 (b) of 1959 Act, the Joint Commissioner/Deputy Commissioner is empowered to decide whether trusteeship in relation to a religious institution was hereditary or not and not to decide whether a particular person was entitled to function as a hereditary trustee at a particular point of time with reference to a temple, the hereditary nature of the trusteeship of which had been admitted.

Declared denominational in prior proceedings before Civil Court

Sri. Panduranganathaswami Devasthanams was declared denominational in prior proceedings before Civil Court and the Deputy Commissioner invited applications for appointment of trustees, it was held that community alone can appoint trustees. *Sri Panduranganathaswami Devasthanam v. Deputy Commissioner H.R. & C.E.*, (1988)2 M.L.J. 53.

Right to office and right to emoluments

When the right to the office and the right to the emoluments are both interlinked, the Deputy Commissioner while exercising jurisdiction regarding the right to the emoluments cannot refuse to exercise jurisdiction for deciding the right to the office which is a condition precedent to the applicant being entitled to the emoluments, *Solamalayan Poojari (deceased) & others v. Commissioner H.R. & C.E.*, (1968)1 M.L.J. 105.

No controversy about office

Where there is no controversy about the office or the emoluments attached to the office but the dispute is whether the office is vested with Pillai community or 1st defendant such dispute does not fall within the scope of Section 63 (e) of the Act and the dispute falls within the jurisdiction of Civil Court. *Chinnathambi Mooppan v. Mamundi Mooppan*, (1966) 1 M.L.J. 361.

Joint Commissioner/Deputy Commissioner to decide whether temple is public or private

In *Seeni Thevar v. Velayudha Raja* (1992)2 M.L.J. 530, it was held that the question whether temple is public or private can be decided only by Deputy Commissioner.

Property set apart for religious trust

Where property was set apart for religious trust, subsequent thereto it cannot be said to be private or private secular trust property, *D.C. H.R. & C.E. v. Rama Iyengar*, (1992)1 M.L.J. 47.

64. Power of¹[Joint Commissioner or Deputy Commissioner] to settle schemes.—

- (1) When ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], has reason to believe that in the interest of the proper administration of an institution, a scheme should be settled for the institution, or when not less than five persons having interest make an application, in writing, stating that in the interest of the proper administration of an institution a scheme should be settled for it, ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], shall consult in the prescribed manner the trustee and the persons having interest ²[***] and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, settle a scheme of administration for the institution.

1. Substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

2. The words "and the Area Committee, if any, exercising powers and discharging duties in respect of the institution" were omitted by Section 24 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

Explanation.—For the purposes of this Section, “institution” means a temple or a specific endowment attached to a temple.

(2) A Scheme settled under Sub-section (1) for an institution may contain provision for—

- (a) removing any existing trustee, whether hereditary or non-hereditary: Provided that where provision is made in the scheme for the removal of a hereditary trustee, provision shall also be made therein for the appointment as trustee of the person next in succession who is qualified;
- (b) appointing a new trustee or trustees in the place of, or in addition to, any existing trustee or trustees;
- (c) defining the powers and duties of the trustee or trustees:

Provided that in making any provision of the nature specified in Clause (b), due regard shall be had to the claims of persons belonging to the religious denomination for whose benefit the institution is chiefly intended or maintained.

(3) ¹[The Joint Commissioner or the Deputy Commissioner, as the case may be], may determine what the properties of the institution are and append to the scheme a schedule containing a list of such properties.

(4) Pending the settlement of a scheme for an institution, ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], may appoint a fit-person to perform all or any of the trustees thereof and define his powers and duties.

(5) (a) [The Joint Commissioner or the Deputy Commissioner, as the case may be], may, at any time, after consulting the trustee and the persons having interest ²[****], by order, modify or cancel any scheme in force, settled under Sub-section (1), or any scheme in force, settled or modified by the Board under the ³[Tamil Nadu] Hindu Religious Endowments Act, 1926 (³[Tamil Nadu] Act II of 1927), or deemed to have been settled under that Act, or any scheme in force settled or modified by ²[the Joint Commissioner or the Deputy Commissioner, as the case may be], or the Commissioner under this Act, or any scheme in force settled or modified by the Court in a suit under Sub-section (1) of Section 70, or on an appeal under Sub-section (2) of that Section or any such scheme in force deemed to have been settled or modified by the Court under Clause (a) of Sub-section (2) of Section 118:

1. Substituted for the words “the Deputy Commissioner” by Tamil Nadu Act 38 of 1995.

2. The words “and the Area Committee, if any, exercising powers and discharging duties in respect of the institution” were omitted by Tamil Nadu Act 19 of 1968.

3. Substituted for the word “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

Provided that such cancellation or modification of a scheme in force settled or modified by the Court in a suit under Sub-section (1) of Section 70 or on an appeal under Sub-section (2) of that Section or of a scheme in force deemed to have been settled or modified by the Court under Clause (a) of Sub-sec. (2) of Section 118 shall be made only subject to such conditions and restrictions as may be prescribed.

- (b) If¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], is satisfied that any such scheme referred to in Clause (a) is inconsistent with this Act and the Rules made thereunder, he may, at any time, after consulting the trustee and the persons having interest in the institution, ²[*****] modify it in such manner as may be necessary to bring it into conformity with the provisions of this Act and the rules made thereunder.
- (6) Every order of ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], settling modifying or cancelling a scheme under this Section shall be published in the prescribed manner and on such publication shall, subject to the provisions of Sections 69 and 70 be, binding on the trustee, the Executive Officer and persons having interest.

Notes

Section 64 of the Act deals with power of Joint Commissioner or Deputy Commissioner to settle schemes.

Sub-section (5) of Sec.64.

Proceedings under Sub-section (5) are not administrative but quasi-judicial in nature.

Laxmi Kumara Thathachariar v. Commissioner H.R. & C.E., A.I.R. 1998 S.C. 3252. Power of the Deputy/Joint Commissioner to modify a scheme extends to modification of scheme framed. (1998)6 S.C.C. 643 under Sec.92 CPC by the High Court.

Jurisdiction to frame scheme

In *S. Ramamurthy v. Commissioner, H.R. & C.E.* A.I.R. 1994 Mad. 238, where the trust deed specifies performance of poojas of idols in a house and it is not a public place of worship of Hindus, it was held that in such a case authorities have no Jurisdiction to frame a scheme.

Co-Trustees

Co-trustees form collective trust and perform duties in joint capacity and a scheme of management by turns is only *inter se* arrangement and outside family. All of them constitute a corporate entity and right of management vests in all of them. *Mookka Velar v. Commissioner, H.R. & C.E.* (1998)3 M.L.J. 28.

1. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

2. The words "and the Area Committee, if any, exercising powers and discharging duties in respect of the institution" were omitted by Tamil Nadu Act 19 of 1968.

Scheme framed under Sec. 92, C.P.C.

In *R. Desika Thathachariar v. Deputy Commissioner H.R. & C.E.*, (1970)2 M.L.J. 475, it was held that Section 75 of Madras Act II of 1927 stated that where the administration of religious endowment was governed by a scheme framed under Sec.92, C.P.C., such a scheme should be deemed to be a scheme settled under Act II of 1927 and it might be modified or cancelled in the manner provided in that Act.

Suit to set aside order of Deputy Commissioner/Joint Commissioner

In *Shanmugha Mudaliar v. Rajagopal (died) and others*, (1992)2 M.L.J. 416, it was held that unless plaintiff pleads and proves that ingredients of Sec.64 (5) (b) are not satisfied he cannot succeed in the suit.

The Commissioner, H.R. & C.E Department Madras v. Arulmigu Ahobila Madam represented by its power Agent, P.V. Srinivasan, (2003)1 M.L.J. 789. On receipt of complaints of mismanagement of the Math properties, the Commissioner issued a show cause notice in 1964 and a reply was sent in 1964. An enquiry was conducted in 1965. The proceedings of the enquiry were annexed to the notice dated 11-3-1976 intimating the enquiry date and the last paragraph of the said proceedings mentioned that a draft scheme will issue and further enquiry will be held on 21-5-1976. The Math filed a suit under Section 70 of the Act. Once the Court comes to the conclusion that the communication dated 11-3-76 is only an order under Section 65 of the Act, then a suit would lie under Section 70 of the Act. The Commissioner failed to give notice to the Madathipathi. Even before drafting a scheme. The Act or Rules do not contemplate the Commissioner framing a draft scheme and then a final scheme. Curiously the Commissioner had sent the copy of the draft scheme for publication in the Gazette not warranted under Section 65 (5) of the Act. Taking note of the subsequent events demonstrating the abundant faith the public had in Madathipathi, the Commissioner shall not take proceedings afresh under Section 65.

65. Power of Commissioner to settle schemes.—

- (1) When the Commissioner has reason to believe that in the interests of the proper administration of a Math or a specific endowment attached to a Math, a scheme should be settled for the Math or the specific endowment attached to a Math, or when not less than five persons having interest make an application in writing, stating that in the interests of the proper administration of the Math or the specific endowment attached to the Math, a scheme should be settled for it, the Commissioner shall consult in the prescribed manner the trustee and the persons having interest; and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, settle a scheme of administration for the Math or the specific endowment attached to the Math.
- (2) A scheme settled under this Section for the administration of a Math or a specified endowment attached to a Math may contain provision for—
 - (a) constituting a body for the purpose of assisting in the whole or any

part of the administration of the endowments of such Math or of the specific endowment:

Provided that the members of such body shall be chosen from persons having interest in such Math or endowment;

- (b) defining the powers and duties of the trustee.**
- (3) The Commissioner may determine what the properties of the Math or of the specific endowment attached to the Math are and append to the scheme a Schedule containing a list of such properties.**
- (4) (a) The Commissioner may, at any time after consulting the trustee, by order, modify or cancel any scheme in respect of a Math or a specific endowment attached to a Math and in force and settled under Sub-section (1) or any scheme in force settled or modified by the Board under the '[Tamil Nadu] Hindu Religious Endowments Act, 1926 ('[Tamil Nadu] Act II of 1927), or deemed to have been settled under that Act or any scheme in force settled or modified by the Commissioner under this Act or any scheme in force settled or modified by the Court in a suit under Sub-section (1) of Section 70 or on an appeal under Sub-sec. (2) of that Section or any such scheme in force deemed to have been settled or modified by the Court under Clause (a) of Sub-section (2) of Section 118:**

Provided that such cancellation or modification of a scheme in force settled or modified by the Court in a suit under Sub-section (1) of Section 70 or of an appeal under Sub-section (2) of that Section or of a scheme in force deemed to have been settled or modified by the Court under Clause (a) of Sub-section (2) of Section 118 shall be made only subject to such conditions and restrictions as may be prescribed.

- (b) If the Commissioner is satisfied that any such scheme referred to in Clause (a) is inconsistent with this Act and the rules made there under, he may, at any time, modify it in such manner as may be necessary to bring it into conformity with the provision of this Act and the rules made thereunder.**
- (5) Every order of the Commissioner, settling, modifying or cancelling a scheme under this Section shall be published in the prescribed manner and on such publication shall, subject to the provisions of Sections 69 and 70, be binding on the trustee, the Executive Officer and all persons having interest.**

Notes.

Section 65 of the Act deals with power of Commissioner to settle schemes.

1. Substituted for the word "Madras" by Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

Framing a scheme

Section 65 of Madras Act XXII of 1959 does not in terms provide for the content of the notice to be given thereunder except that it shall be the duty of the Commissioner to consult the trustee before deciding to frame a scheme.

Srila Sri Pichaiiah Sivachariar v. Commissioner H.R. & C.E. (1960)2 M.L.J. 510.

Instrument not necessary

A Hindu is entitled to dedicate his property for religious and charitable purposes wherefor even no instrument in writing is necessary. A Hindu, however in the event, wishes to establish a charitable institution must express his purpose and endow it. Such purpose must clearly be specified. For the purpose of creating an endowment, what is necessary is a clear and unequivocal manifestation of intention to create a trust and vesting thereof in the donor and another as trustees, *Kuldip Chand v. A.G. to Government of H.P.*, A.I.R. 2003 S.C. 1685: (2003)5 S.C.C. 46.

66. Appropriation of endowments.—

(1) [The Joint Commissioner or the Deputy Commissioner, as the case may be], may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realisation, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes, namely:—

- (a) the grant of aid to any other religious institution which is poor or in needy circumstances;
- (b) the grant of aid to any religious purpose connected with the Hindu religion;
- (c) the propagation of the religious tenets of the institution;
- (d) the recitation of Divya Prabhandam and Thevaram and the like;
- (e) the establishment and maintenance of schools for the training of archakas, adyapakas, vedaparayanikas and Othuvams and for the study of Divya Prabandhams, Thevarams, and the like, including the study of Indian languages for that purposes;
- (f) the establishment and maintenance of a University or college or other institution in which the main features shall be the provision for the study of Hindu religion, philosophy or sastras or for imparting instructions in Hindu temple architecture;
- (g) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also provided;
- (h) promotion of fine arts and architecture;
- (i) the establishment and maintenance of orphanages for Hindu children;
- (j) the establishment and maintenance of asylums for persons

1. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

suffering from leprosy;

- (k) the establishment and maintenance of homes for the poor destitute, helpless and physically disabled persons; and
- (l) the establishment and maintenance of hospitals and dispensaries for the benefit of pilgrims:

Provided that in the case of religious institutions founded and maintained by a religious denomination or any Section thereof, the endowment shall, as far as possible, be utilised for the benefit of the denomination or section concerned for the purposes mentioned above.

- (2) '[The Joint Commissioner or the Deputy Commissioner, as the case may be], may, at any time by order, modify or cancel any order passed under Sub-section (1).
- (3) The order of '[the Joint Commissioner or the Deputy Commissioner, as the case may be], under the Section shall be published in the prescribed manner and on such publication shall, subject to the provisions of Section 69, be binding on the trustee, the Executive Officer and all persons having interest.

67. *Determination and application of properties and funds of defunct religious institutions.—*

- (1) '[The Joint Commissioner or the Deputy Commissioner, as the case may be], on being satisfied that a religious institution has, whether before or after the date of the commencement of this Act, ceased to exist, hold an inquiry in the prescribed manner to ascertain its properties and funds; and after doing so, shall pass an order—
 - (a) specifying the properties and funds of the institution;
 - (b) appointing a trustee therefor;
 - (c) directing the recovery of any such properties or funds from any person who may be in possession thereof; and
 - (d) laying down that the properties and funds so specified shall be applied or utilised for renovating the institution or if such renovation is not possible, be appropriated to anyone or more of the purposes specified in Sub-section (1) of Section 66.
- (2) '[The Joint Commissioner or the Deputy Commissioner, as the case may be], may, on being satisfied after holding an enquiry in the prescribed manner, that any building or other place which was being used for religious worship or instruction has, whether before or after the date of the commencement of this Act, ceased to be used for that purpose, pass an order—

- (a) directing the recovery of such building or place from any person who may be in possession thereof; and
 - (b) laying down that it shall be used for religious worship or instruction as before, or if such use is not possible, be utilised for any one or more of the purposes specified in Sub-section (1) of Section 66.
- (3) Nothing contained in Sub-section (1) or Sub-section (2) shall be deemed to authorise ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], to pass an order in respect of any property or funds which vested in any person before the 30th September, 1951 by the operation of the law of limitation.
- (4) Every order of ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], under Sub-section (1) or Sub-section (2) shall be published in the prescribed manner.

68. *¹[Joint Commissioner or Deputy Commissioner] to forward copies.—*

- (1) ¹[The Joint Commissioner or the Deputy Commissioner, as the case may be], shall, within a week from the date of his order made under any of the foregoing Sections of this chapter, forward a copy of such order to the Commissioner.

69. *Appeal to the Commissioner.—*

- (1) Any person aggrieved by any order passed by ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], under any of the foregoing Sections of this chapter, may within sixty days from the date of the publication of the order or of the receipt thereof by him as the case may be, appeal to the Commissioner and the Commissioner may pass such order thereon as he thinks fit.
- (2) Any order passed by ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], in respect of which no appeal has been preferred within the period specified in Sub-section (1) may be revised by the Commissioner *suo motu* and the Commissioner may call for and examine the records of the proceedings as to satisfy himself as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed by ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be]. Any such order passed by the Commissioner in respect of an order passed by ¹[the Joint Commissioner or the Deputy Commissioner, as the case may be], shall be deemed to have been passed by the Commissioner on an appeal preferred to him under Sub-section (1).

1. Substituted for the words " the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

- (3) Any order passed by the Commissioner on such appeal against which no suit lies to the Court under the next succeeding Section or in which no suit has been instituted in the Court within the time specified in Sub-section (1) of Section 70 may be modified or cancelled by the Commissioner, if the order has settled or modified a scheme for the administration of a religious institution or relates to any of the matters specified in Section 66.

Notes

Section 69 of the Act deals with appeal to the Commissioner.

Suo Motu powers

Though no time limit is specified in Sub-section (2) *suo motu* powers are to be exercised within a reasonable time. *Ponnuswami v. Dy. Commissioner H.R. & C.E.*, (1994)1 M.L.J. 155. What is a reasonable time would, however, depend upon the merits of each and every case.

In the *Commissioner H.R. & C.E. (Adm) Department Madras, and another v. K.Nagarajaodiyar*, (2003)1 M.L.J. 288. The testator endowed certain property for performance of charities in a temple and did not deal with his other properties. The Collector under Section 94 (2) of the Act sought to levy contribution from all, treating all the properties as endowed properties. The appellant straightaway applied to the Commissioner in respect of the other properties not covered by the Will but the Commissioner rejected his claim. The appellant filed the suit under Section 70(2) of the Act to set aside the order of Commissioner. The High Court in appeal on finding the other properties not covered by the Will do not belong to the religious endowment, held the suit was maintainable in respect of such properties. The Commissioner appealed. The suit is maintainable as regards the properties not covered by the Will, on the finding that the other properties do not belong to the endowment and Section 108 of the Act is no bar. Since the Commissioner being an appellate authority, who had decided the question, it was thought futile to direct the respondent to apply under Section 63 (c) of the Act.

In *Saheb Gounda (dead) by LRs & others. v. Ogeppa & others* (2003)2 M.L.J. (S.C) 143, it was held that the only relief that was claimed in the suit was their hereditary right to act as poojaris of the temple. The fact that they applied under Section 18 and 78 of the Bombay Public Trusts Act, for the registration of the temple and the land annexed to it as Public Trust would not oust the Jurisdiction of the Civil Court from granting the relief claimed in the suit. Act 2 of 1971 abolishes hereditary poojaris.

N.T.Shanmughan and others v. Kondalavannan and others, (2003)1 M.L.J. 134. The defendants filed an application before the Deputy Commissioner for framing a scheme, for the temple and a draft scheme, and a final scheme were framed. The plaintiffs filed an appeal to the Commissioner against the order in the draft scheme and not against the final scheme. The appeal was dismissed as infructuous. The plaintiffs filed a suit, after giving a notice under Section 80 of C.P.C., under Section 70 of the Act to set side the order of the Commissioner and contended that the period of notice should be excluded in computing limitation. In the final appeal the High Court held that the final scheme is a separate order and unless

an appeal is filed against the final order, the Commissioner would have no authority or jurisdiction to vary the final scheme. The suit being filed under Section 70 of the Act being a statutory suit would not require a notice under Section 80 C.P.C. and hence barred by time. The exclusion of women from trusteeship is provided by founder and it cannot be found fault with. A.I.R. (2003)3 Calcutta 539.

70. Suits and appeals.—

- (1) Any party aggrieved by an order passed by the Commissioner—**
 - (i) under Sub-section (1) or Sub-section (2) of Section 69 and relating to any of the matters specified in Section 63, Section 64 or Section 67; or**
 - (ii) under Section 63, Section 64 or Section 67 read with Sub-sections (1)(a), 2 or (4)(a) of Section 22 or under Section 65 may, within ninety days from the date of the receipt of such order by him institute a suit in the Court against such order, and the Court may modify or cancel such order, but it shall have no power to stay the order of the Commissioner pending the disposal of the suit.**
- (2) Any party aggrieved by a decree of the Court under Sub-section (1) may within ninety days from the date of the decree appeal to the High Court.**

Notes

Section 70 of the Act deals with suits and appeals.

Suits

Any party aggrieved by the orders specified in Sub-section (1) may institute a suit against such order and the Court may modify or cancel such order but it shall have no power to stay the order of the Commissioner pending disposal of the suit. Since these are quasi-judicial orders, they are not public officers purporting to act in official capacity and hence notice under Section 80 C.P.C. is not necessary.

H. H. S.S.S.V. D.Y. Mahadesikan v. Commissioner H.R. & C.E., (1985)1 M.L.J. 82. *Palaniswami Pillai v. Commissioner H.R. & C.E.*, (1998)2 M.L.J. 50, Section 26 C.P.C. simply says that every suit shall be constituted by the presentation of a plaint or in such other manner as may be prescribed.

RajaGopal Chettiar v. Hindu Religious Endowment Board, A.I.R. 1934 Mad. 103. *Arjun Singh v. Mohindra*, A.I.R. 1964 S.C. 993. *Matuku Maistry v. Kamakhya Prasad*, A.I.R. 1958 Pat. 264. *Shaik Maqbool Ali v. Hunter*, A.I.R. 1943 Oudh 338. *Rameshwar v. Haraku Ltd*, A.I.R. 1942 Pat. 226.

Section 70 of the Act and Sec.80 C.P.C.

The Division Bench in *Executive Officer Arulmigu Ranganathaswami Devasthanam v. His Holiness Srīman Satagopa Sri Vedanta Desika Yathindra Maha Desigan 44th Jeer of Ahobila Math*, (1989)2 M.L.J. 54, it was held when a suit is filed under Sec.70 of the Act for cancellation or modification of the order passed by the Commissioner in the appeal preferred to him under Section 69 of the Act, the order in question has been made by the

Commissioner in discharge of his official duties and therefore it is an act purposing to be done in his official capacity and hence a notice under Section 80 C.P.C. is necessary for the institution of the suit against him.

See (1998)2 M.L.J. 50. and (1985)1 M.L.J. 82 under sub-head "suits".

Limitation

The Division Bench in *State of Madras v. Sambandamurthi Mudaliar*, (1966)2 M.L.J. 337, had dealt with the computation of period of limitation for a suit against order of Commissioner.

CHAPTER VI

NOTIFIED RELIGIOUS INSTITUTIONS

71. Issue of notice to show cause why institution should not be notified.—

- (1) Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interest of its administration, it is necessary to take proceedings under this chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter.
- (2) Such notice shall state the reasons for the action proposed and specify a reasonable time not being less than one month from the date of the issue of the notice for showing such cause.
- (3) The trustee or any person having interest may thereupon prefer any objection he may wish to make to the issue of a notification as proposed.
- (4) Such objection shall be in writing and shall reach the Commissioner before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the Commissioner.

72. Consideration of objections, if any, and notification of institution.—

- (1) Where no such objection has been received within the time so specified or granted, the Government may, on receipt of a report from the Commissioner to that effect, by notification, declare the religious institution to be subject to the provisions of this Chapter.
- (2) Where any such objections have been received within the time so specified or granted, the Commissioner shall hold an enquiry into the objections in the manner prescribed and decide whether the institution should be notified to be subject to the provisions of this Chapter or not.
- (3) If the Commissioner decides that the institution should be notified as aforesaid, he shall make a report to that effect to the Government, who may thereupon, by notification, declare the religious institution to be subject to the provisions of this Chapter.

- (4) Any trustee or any person having an interest, who is aggrieved by a notification published under Sub-section (1) or Sub-section (3) may, within thirty days from the date of its publication, institute a suit in the Court for the cancellation of such notification and the Government shall cancel the notification if the Court so directs:

Provided that the Court shall have no power to suspend the operation of the notification pending the disposal of the suit.

- (5) Any party aggrieved by a decree of the Court under Sub-section (4) may, within ninety days from the date of the decree, appeal to the High Court.

'[(6) Notwithstanding anything contained in Sub-sections (4) and (5), if the Government after taking into consideration such matters relating to the management and administration of the religious institution as may be prescribed, are satisfied at any time after the publication of a notification under Sub-section (1) or Sub-section (3) that it is no longer necessary to continue the notification, they may cancel the notification].

- (7) ²[Any notification published ³[***] under Section 64 of the ⁴[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 (⁴[Tamil Nadu] Act XIX of 1951) and in force on] the date of commencement of this Act shall be as valid as if such notification had been published under this Act:

Provided that if on the date of the commencement of this Act a period of thirty days has lapsed from the date of the publication of a notification under Section 64 of the ⁴[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 (⁴[Tamil Nadu] Act XIX of 1951), no suit shall be instituted under Sub-section (4) of this Section:

Provided further that if, on the date of the commencement of this Act, a period of thirty days has not lapsed from the date of publication of the notification under Section 64 of the said Act, the date of publication of such notification for the purposes of Sub-section (4) of this Section shall be the date of publication of that notification under the said Act.

1. This Sub-section was substituted for the following Sub-section (6) by Section 2(i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1965 (Tamil Nadu Act 16 of 1965):

"(6) Notwithstanding anything contained in Sub-sections (4) and (5), if the Government are satisfied at any time after the publication of a notification under Sub-section (1) or Sub-section (3) that the religious institution is no longer being mismanaged, they may cancel the notification,"

2. These words, brackets and figures were substituted for the words, brackets and figures, "Any notification published under Sub-section (1) or Sub-section (3) of Section 64 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), before" by Section 3 of the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1961 (Tamil Nadu Act 40 of 1961), which deemed to have come into force on the 1st January, 1960.

3. The words "or deemed to have been published" were omitted by Section 2 (ii) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1965 (Tamil Nadu Act 16 of 1965).

4. Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

73. Scheme to lapse on notification.—

On the publication of the notification, the scheme of administration, if any, settled for the religious institution, whether before or after the date of the commencement of this Act, and all Rules, if any, framed under such scheme shall cease to apply to the institution and shall become inoperative and such scheme and Rules shall not be revived by reason of the cancellation of the notification ¹[under Sub-section (4) or] under Sub-section (6) of Section 72.

74. Appointment of salaried Executive Officer.—

For every institution notified under this Chapter, the Commissioner shall, as soon as may be, appoint a salaried Executive Officer, who shall be a person professing the Hindu religion.

75. Section 64 not to apply to notified institutions.—

- (1) Section 64 shall not apply to ²[***] any religious institution notified under this Chapter or under Chapter VI of the ³[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 (³[Tamil Nadu] Act XIX of 1951) or under Chapter VI-A of the ³[Tamil Nadu] Hindu Religious Endowments Act, 1926 (³[Tamil Nadu] Act II of 1927) so long as the notification remains in force.
- (2) Nothing in Sub-section (1) shall be construed as prohibiting the settlement of a scheme under Section 64 during the period when a notification is in force, to take effect immediately on the notification ceasing to be in force.

⁴[75-A. Notification under Chapter VI-A of ³[Tamil Nadu] Act II of 1927 to continue in force.—

Notwithstanding any judgment, decree or order of any Court and notwithstanding anything contained in the ³[Tamil Nadu] Hindu Religious Endowments Act, 1926 (³[Tamil Nadu] Act II of 1927) or in the ³[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 (³[Tamil Nadu] Act XIX of 1951), or in this Act, but subject to the provisions of Section 75-C, all notifications issued under Chapter VI-A of the ³[Tamil Nadu] Hindu Religious Endowments Act, 1926 (³[Tamil Nadu] Act II of 1927) and in force immediately before the 30th September, 1956, and which have not been subsequently cancelled by the Government

1. These words, brackets and figure were inserted by Section 3 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1965 (Tamil Nadu Act 16 of 1965).

2. The words "and no Area Committee shall exercise powers and discharge duties in respect of" were omitted by Section 25 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

3. Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

4. Sections 75-A, 75-B and 75-C were inserted by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendments) Act, 1965 (Tamil Nadu Act 16 of 1965).

shall continue, and shall be deemed always to have continued, in force upto and inclusive of the 16th July, 1965, and for a period of one year thereafter; and accordingly all acts, proceedings or things done or taken under the said Acts or this Act by the Government or by any officer of the Government or by any other authority in pursuance of the said notifications shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law.

75-B. Further continuance of notification under Chapter VI—A of '[Tamil Nadu] Act II of 1927.—

- (1) Where after the expiry of a period of six months from the 16th of July, 1965, the Commissioner is satisfied that in the interests of the administration of any religious institution governed by any of the notifications referred to in Section 75-A, it is necessary to continue the notification (hereinafter in this Section referred to as the said notification), beyond the date of expiry of the period of one year from the 16th July, 1965, he may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why the said notification should not be so continued.
- (2) Such notice shall state the reasons for the action proposed, and specify a reasonable time, not being less than one month from the date of the issue of such notice, for showing such cause.
- (3) The trustee or any person having interest may, thereupon, prefer any objection he may wish to make against the action proposed.
- (4) Such objection shall be in writing and shall reach the Commissioner before the expiry of the time specified in the notice aforesaid, or within such further time as may be granted by the Commissioner.
- (5) Where no such objection has been received within the time so specified or granted, the Government may, on receipt of a report from the Commissioner to that effect, by notification, declare that the said notification shall continue in force beyond the date of the expiry of the period of one year from the 16th July, 1965.
- (6) Where any such objections have been received within the time specified or granted, the Commissioner shall hold an enquiry into the objections in the manner prescribed and decide whether or not the said notification should be continued as aforesaid.
- (7) If the Commissioner decides that the said notification should be continued as aforesaid, he shall make a report to that effect to the Government who may thereupon, by notification, declare that the said notification shall continue in force beyond the date of the expiry of the period of one year from the 16th July, 1965.

75-C. Right to suit.—

- (1) Any trustee or any person having an interest, who is aggrieved by the continuance of a notification under Section 75-A or under Section 75-B may—
- (i) in the case of the continuance of the notification under Section 75-A within sixty days from the 16th July, 1965; and
 - (ii) in the case of the continuance of the notification under Section 75-B within sixty days from the date of declaration under Sub-section (5) or Sub-section (7) for the said Section 75-B, institute a suit in the Court for the cancellation of such notification and the Government shall cancel the notification if the Court so directs:

Provided that the Court shall have no power to suspend the operation of the notification pending the disposal of the suit.

- (2) Any party aggrieved by a decree of the Court under Sub-section (1) may, within ninety days from the date of decree, appeal to the High Court.
- (3) Notwithstanding anything contained in Section 75-A or Section 75-B, if the Government, after taking into consideration such matters relating to the management and administration of the religious institution as may be prescribed, are satisfied that it is no longer necessary to continue a notification continued in force under Section 75-A or under Section 75-B, they may cancel the notification.
- (4) In respect of a religious institution governed by a notification continued in force under Section 75-A or Section 75-B,—
 - (a) the scheme of administration, if any, settled and all rules, if any, framed under such scheme shall cease, and shall be deemed always to have ceased to apply to the institution and shall become and shall be deemed always to have become inoperative and such scheme and rules shall not be revived by reason of the cancellation of the notification under Sub-section (1) or Sub-section (3);
 - (b) the Commissioner shall have power and shall be deemed always to have had power to appoint a salaried Executive Officer who shall be a person professing the Hindu religion.]

76. Saving.—

Nothing in this Chapter shall apply to Maths or other religious institutions having hereditary trustees who have a beneficial interest in the income of the institution.

Notes

Section 76 of the Act dealing with savings says that nothing in this chapter shall apply to

Maths or other religious institutions having hereditary trustees who have a beneficial interest in the income of the institution.

CHAPTER VII ENCROACHMENTS

77. *Transfer of lands appurtenant to or adjoining religious institutions prohibited except in special cases.—*

- (1) Notwithstanding anything contained in Section 34, no trustee of a religious institution shall lease or mortgage with possession or grant a licence for the occupation of—
 - (a) any land belonging to the religious institution which is appurtenant to or adjoins the religious institution, or any sacred tank, well, spring, or water course, appurtenant to the religious institution whether situated within or outside the precincts thereof, or
 - (b) any space within or outside the prakarams, mantapams, courtyards or corridors of the religious institution:

Provided that nothing contained in this Sub-section shall apply to the leasing or licensing of any such land or space for the purpose of providing amenities to pilgrims or of vending flowers or other articles used for worship or of holding for specified periods, fairs or exhibitions during festivals connected with the religious institution.

- (2) Any lease or mortgage with possession or licence in contravention of the provisions of Sub-section (1) shall be *null and void*.
- (3) Notwithstanding anything contained in Sub-sections (1) or (2), '[the Commissioner] may sanction the lease or mortgage with possession or granting of a licence for the occupation of any such land or space as is mentioned in Sub-section (1) and situated outside the precincts of a religious institution for any purpose other than a purpose mentioned in the *proviso* to Sub-section (1).

²[78. *Encroachment by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers.—*

- (1) Where the Assistant Commissioner having jurisdiction either *suo motu* or upon a complaint made by the trustee has reason to believe that any person has encroached upon (hereinafter in this Section referred to as “encroacher”) any land, building, tank, well, spring, or water-course or any space wherever situate belonging to the religious institution or endowment (hereinafter referred to as “the property”), he shall report the fact together with relevant particulars to the Joint Commissioner

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words “the Temple Administration Board” which in turn were substituted for the words “the Commissioner” by Tamil Nadu Act 46 of 1991.

2. Substituted by Tamil Nadu Act 39 of 1996, which came into force on 9th December, 1996.

having jurisdiction over the division in which the religious institution or endowment is situated.

Explanation.—For the purpose of this Section, the expression “encroacher” shall mean any person who unauthorisedly occupies any tank, well, spring, or water-course, or any property and to include—

- (a) any person who is in occupation of property without the approval of the competent authority (sanctioning lease or mortgage or licence) and
 - (b) any person who continues to remain in the property after the expiry or termination or cancellation of the lease, mortgage or licence granted to him.
- (2) Where, on a perusal of the report received by him under Sub-section (1), the Joint Commissioner finds that there is a *prima facie* case of encroachment, he shall cause to be served upon the “encroacher” a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before the date specified on the notice should not be made. A copy of the notice shall also be sent to the trustees of the religious institution or endowment concerned.
 - (3) The notice referred to in Sub-section (2) shall be served in such manner as may be prescribed.
 - (4) Where after considering the objections, if any, of the “encroacher” received during the period specified in the notice referred to in Sub-section (2) and after conducting such inquiry as may be prescribed, the Joint Commissioner is satisfied that there has been an encroachment, he may by order and for reasons to be recorded, require the encroacher to remove the encroachment and deliver possession of the property (land or building or space) encroached upon to the trustee before the date specified in such order.
 - (5) During the pendency of the proceedings, the Joint Commissioner shall order the “encroacher” to deposit such amount as may be specified by him in consideration of the use and occupation of the properties in question in the manner prescribed.]

Notes

Section 78 of the Act deals with encroachment by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers. Explanation to Sub-section (1) explains the meaning of encroacher for the purpose of that Section.

Prima facie case of encroachment

Sub-section (2) says that where the Joint Commissioner on perusal of report received by him under Sub-section (1) finds that there is a *prima facie* case of encroachment, he shall

cause a notice to be served upon the encroacher specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before the date specified on the notice should not be made. It also says that a copy of the notice shall also be sent to the trustee of the religious institution or endowment concerned.

¹[79. *Mode of eviction on failure of removal of the encroachment as directed by the Joint Commissioner.—*

- (1) Where within the period specified in the order under Sub-section (4) of Section 78, the encroacher has not removed the encroachment and has not vacated the property, the Assistant Commissioner having jurisdiction over the division may remove the encroachment and obtain possession of the property encroached upon, taking such police assistance as may be necessary. Any Police Officer whose help is required for this purpose shall render necessary help to the Assistant Commissioner.
- (2) Nothing in Sub-section (1) shall prevent any person aggrieved by the order of the Joint Commissioner under Sub-section (4) of Section 78 from instituting a suit in a Court to establish that the religious institution or endowment has no title to the property:

Provided that no Civil Court shall take cognizance of any suit instituted after six months from the date of receipt of the order under Sub-section (4) of Section 78:

Provided further that no such suit shall be instituted by a person who is let into possession of the property or who is a lessee, licensee or mortgagee, of the religious institution or endowment.

- (3) No injunction shall be granted by any Court in respect of any proceeding taken or about to be taken by the Joint Commissioner under Sec. 78.]

²[79-A. *Encroachment by group of persons on land belonging to charitable religious institutions and their eviction.—*

- (1) Where the Joint Commissioner knows or has reason to believe that a group or groups of persons without any entitlement and with the common object of occupying any land, which is the property belonging to a charitable or religious institution or endowment, are occupying or have occupied any such land and if such group or groups of persons have not vacated the land on demand by the Joint Commissioner or any officer authorised by him in this behalf, the Joint Commissioner shall, notwithstanding anything contained in this Act, order, after giving due notice, the immediate eviction of the encroachers from the land and the taking of possession of the land and thereupon, it shall be lawful for any officer

1. Substituted by Tamil Nadu Act 39 of 1996, which came into force on 9th December, 1996.

2. Section 79-A was inserted by Tamil Nadu Act 39 of 1996, which came into force on 9th December, 1996.

authorised by the Joint Commissioner in this behalf to evict the encroachers from the land by force, taking such land. Any police officer whose help is required for this purpose shall be bound to render the necessary help to the Joint Commissioner or to such officer authorised by him.

- (2) Where, in any proceedings taken under this Section, or in consequence of anything done under this Section, a question arises as to whether any land is the property of the charitable or religious institution or endowment, such land shall be presumed to be the property of the charitable or religious institution or endowment until the contrary is proved by the encroacher.
- (3) Any order of eviction passed by the Joint Commissioner under Sub-section (1) shall be final and shall not be questioned in any Court.]

¹[79-B. *Penalty for offences in connection with encroachment.*—

- (1) No person, on or after the commencement of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1996 (Tamil Nadu Act 39 of 1996) shall occupy, otherwise than by lawful possession, any property belonging to a charitable or religious institution or endowment.
- (2) Whoever contravenes the provisions of Sub-section (1), shall, on conviction, be punished with imprisonment for a term which shall not be less than three months but which may extend to five years and with fine which may extend to five thousand rupees.
- (3) No Court shall take cognizance of an offence punishable under Sub-section (2) except on the complaint in writing of the Commissioner.
- (4) No offence punishable under Sub-section (2) shall be inquired into or tried by any Court inferior to that of a Judicial Magistrate of the First Class].

²[79-C. *Recovery of moneys due to religious institution, as arrears of land revenue.*—

Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any moneys due to a religious institution may be recovered as if it were an arrear of land revenue and for the purposes of such recovery, the Commissioner of the Hindu Religious and Charitable Endowments (Administration) Department or any officer, not below the rank of Deputy Commissioner authorised by the

1. Section 79-B was inserted by Tamil Nadu Act 39 of 1996, which came into force on 9th December 1996.

2. Inserted by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1999 (Tamil Nadu Act 52 of 1999).

Commissioner in this behalf, shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864)].

Notes

Section 79 of the Act deals with mode of eviction on failure of removal of the encroachment as directed by the Joint Commissioner. Sub-section (2) says that any person aggrieved by an order of Joint Commissioner under Sec. 78 (4) can institute a suit in a Court to establish that the religious institution or endowment has no title to the property. First *proviso* says that no Civil Court shall take cognizance of any suit instituted after six months from the date of the receipt of the order under Sec. 78 (4) of the Act.

Sub-section (3)

Sub-section (3) says that no injunction shall be granted by any Court in respect of any proceeding taken or about to be taken by the Joint Commissioner under Section 78.

80. Eviction of lessees, licensees or mortgagees with possession in certain cases.—

(1) Where the Assistant Commissioner having jurisdiction over the area in which the religious institution is situated is of the view that the lessee, licensee or mortgagee with possession of any land belonging to the religious institution ¹[wherever it is situated] or any sacred tank, well, spring or water course, appurtenant to the religious institution whether situated within or outside the precincts thereof, or any space within or outside the prakarams, mantapams, courtyards or corridors of the religious institution, has taken any action which has marred or is likely to mar the artistic appearance or the religious atmosphere of the religious institution, the Assistant Commissioner shall report the fact together with relevant particulars to ²[the Joint Commissioner or the Deputy Commissioner, as the case may be], having jurisdiction over the area in which the religious institution is situated.

(2) ²[The Joint Commissioner or the Deputy Commissioner, as the case may be], if satisfied that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee or mortgagee with possession shall cause to be served on the lessee, licensee or mortgagee concerned, a notice calling upon him to show cause before a certain date why an order terminating the lease or licence or cancelling the mortgage and requiring the lessee, licensee or mortgagee, as the case may be, to deliver possession of the property which is the subject of the lease, licence or mortgage, to the trustee before a date specified in the notice should not be made. A copy of the notice shall also be sent to the trustee of the religious institution concerned.

1. Substituted for the words "which is appurtenant to or adjoins the religious institutions" by Tamil Nadu Act 39 of 1996.

2. Substituted for the words "the Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

- (3) The notice referred to in Sub-section (2) shall be served in such manner as may be prescribed.
- (4) After considering the objections, if any, of the lessee, licensee or mortgagee, received within the period specified in the notice referred to in Sub-section (2), '[the Joint Commissioner or the Deputy Commissioner, as the case may be], may, if he decides that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee or mortgagee by order terminate the leases or licences or cancel the mortgage and require the lessee, licensee or mortgagee to deliver possession of the property which is the subject of the lease, licence or mortgage to the trustee before a date specified in the order.
- (5) The order of '[the Joint Commissioner or the Deputy Commissioner, as the case may be], shall be in writing and shall contain the grounds on which he has passed the order.

81. Appeals against the orders of '[Joint Commissioner or a Deputy Commissioner] under Section 80.—

- (1) Any person aggrieved by an order passed by '[the Joint Commissioner or the Deputy Commissioner, as the case may be], under Section 80 may, within thirty days from the date of the receipt by him of such order, prefer an appeal in writing to the Commissioner.
- (2) On such appeal being preferred, the Commissioner may order stay of further proceedings in the matter pending decision on the appeal.
- (3) The Commissioner shall call for the records of the case from '[the Joint Commissioner or the Deputy Commissioner, as the case may be], and after giving notice in the manner prescribed to the appellant and the trustee of the religious institution and if necessary after making such further inquiry as he thinks fit, shall decide the appeal.
- (4) The decision of the Commissioner and subject to such decision, an order of '[the Joint Commissioner or the Deputy Commissioner, as the case may be], shall be final and shall be conclusive evidence that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred.
- (5) Where no appeal against an order of '[the Joint Commissioner or the Deputy Commissioner, as the case may be], has been preferred under Sub-section (1) or where such an appeal has been preferred and dismissed, the Assistant Commissioner may enter into possession of the land after a specified date and the trustee of the religious institution shall forthwith take steps for restoring the artistic appearance or

religious atmosphere of the religious institution. Any Police Officer whose help is required by the Assistant Commissioner for obtaining possession of the land shall be bound to render the necessary help.

82. *Payment of compensation.*—

- (1) Where, in pursuance of any order passed under the foregoing provisions of this Chapter, any lessee, licensee or mortgagee with possession loses possession of any land, there shall be paid compensation, the amount of which shall be determined by the Tribunal constituted under Section 83, in the manner, and in accordance with the principles hereinafter set out, that is to say—
 - (a) At the commencement of the proceedings before the Tribunal, the trustee of the religious institution and the person to be compensated shall state what in their respective opinion is a fair amount of compensation.
 - (b) The Tribunal in making its award shall have regard to the nature of the property, the use to which it has been put, the rent, fee or other income payable in accordance with the terms of the lease, licence or mortgage, as the case may be.
 - (c) The compensation awarded by the Tribunal shall not exceed the amount, if any, payable by the lessee or licensee for the unexpired period of the lease or licence and in the case of a mortgage, the amount secured of the mortgage together with the interest due thereon.
- (2) The compensation awarded by the Tribunal shall be payable out of the funds of the religious institution after the trustee obtains the permission of '[the Joint Commissioner or the Deputy Commissioner, as the case may be], in accordance with the provisions of this Act.
- (3) Save as provided in this Section and in any rules made under this Act, nothing contained in any law for the time being in force shall apply to awards under this Section.

83. *Constitution of Tribunals.*—

- (1) The Government shall constitute as many Tribunals as may be necessary for the purposes of this Chapter.
- (2) Each Tribunal shall consist of such number of members not exceeding three as may be determined by the Government, and if the number of such members is more than one, one of them shall be appointed as the Chairman by the Government.
- (3) Each Tribunal shall have such jurisdiction and over such area as the Government may, by notification, from time-to-time, determine.

1. Substituted for the words " Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

- (4) The qualifications to be possessed by persons for appointment as members of a Tribunal and the conditions of service of such members shall be such as may be prescribed.
- (5) Every Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit.
- (6) If for any reason a vacancy (other than a temporary absence) occurs in the office of the Chairman of any Tribunal or any other member of any Tribunal, then the Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.
- (7) No act or proceeding before any Tribunal shall be called in question in any manner on the ground merely of the existence of any vacancy in or defect in the constitution of such Tribunal.

Notes

Section 83 of the Act deals with constitution of Tribunals.

See *Jaswant Sugar Mills v. Laxmichand*, A.I.R. 1963 S.C. 677; *Associated Cement Companies v. Sharma*, A.I.R. 1965 S.C. 1595; *Bharat Bank Ltd v. Employees*, A.I.R. 1950 S.C. 188; *Negendra Natha Board v. Commissioner of Hills Division*, A.I.R. 1958 S.C. 398; *Harivishnu Kamat v Ahmad Ishaque*, A.I.R. 1955 S.C. 233; *Molwnder Singh v. Election Commissioner* (1978) 1 S.C.C. 405.

Sub-section (5)

Sub-section (5) says that every tribunal shall have the same powers as are vested in a Civil Court under C.P.C. while trying a suit.

84. *Suits against award.*—

Any party aggrieved by an award of the Tribunal under Section 82 may, within ninety days from the date of the receipt of the award by him, institute a suit in the Civil Court having jurisdiction over the area in which the religious institution is situated.

85. *Protection of action taken under this Chapter.*—

- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of the provisions of this Chapter or any order made in pursuance of any of those provisions.

- (2) No suit or other legal proceeding shall lie against the Tribunal, Commissioner, ¹[Additional Commissioner], ²[Joint Commissioner], Deputy Commissioner or Assistant Commissioner for any damage caused or likely to be caused by anything, in good faith, done or intended to be done in pursuance of the provisions of this Chapter or any order made in pursuance of any of those provisions.

CHAPTER VIII

BUDGETS, ACCOUNTS AND AUDIT

86. *Budgets of Religious Institutions.*—

- (1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be specified by ³[the Commissioner], a budget showing the probable receipts and disbursements of the institution during the following fasli year:—
- ⁴[(a) to the Commissioner in the case of Maths and specific endowments attached to Maths;
 - (b) to the Joint Commissioner/Deputy Commissioner in the case of institutions included in the list published under Section 46;
 - (c) to the Assistant Commissioner in the case of other institutions.]
- (2) Every such budget shall make adequate provision for—
- (a) the due maintenance of the objects of the institution and the proper performance of the services therein;
 - (b) the due discharge of liabilities of loans binding on the institution;
 - (c) the repair and renovation of the buildings connected with the institution, the provision made under this clause not being less than twenty-five per cent of the surplus in the income of the institution for the year;
 - (d) the contribution to the reserve fund of the institution at such per cent of the income as ⁵[the Commissioner] may fix;
 - (e) the maintenance of the working balance.
- (3) ³[The Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions or additions, in the budget ⁵[as he may] deem fit.

1. Inserted by Tamil Nadu Act 50 of 2002.

2. Inserted by Tamil Nadu Act 18 of 1993.

3. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

4. Substituted by Tamil Nadu Act 39 of 1996.

5. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "as it may".

(4) Any trustee may, within one month from the date of the receipt by him of the order under Sub-section (3), appeal against that order—

- ¹[(a) Where the order has been made by the Assistant Commissioner to the Joint Commissioner or the Deputy Commissioner;
- (b) Where the order has been made by the Joint Commissioner or Deputy Commissioner, to the Commissioner;
- (c) Where the order has been made by the Commissioner, to the Government.]

(5) If, in the course of a fasli year, the trustee finds it necessary to modify the provisions made in the budget in regard to the receipts or to the distribution of the amount to be expended under the different heads, he may submit to ²[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, his supplemental or revised budget, provided that no alteration shall be made in the amount allotted for discharge of liabilities and loans or in the working balance and ²[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, may, make such alterations, omissions or additions as provided in Sub-section (3).

(6) The trustee shall, within two months after the close of each fasli year, submit to ²[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, in such form as may be fixed ³[by the Commissioner], a statement of actual receipts and disbursements relating to that fasli year, with particulars of expenditure, if any, incurred without sanction and explaining the necessity therefore or the urgency thereof. ²[The Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, may, after considering the explanation of the trustee, approve and ratify such expenditure, if such expenditure was beneficial or necessary to the institution.

87. *Accounts and Audit.*—

- (1) The trustee of every religious institution shall keep regular accounts of all receipts and disbursements. Such accounts shall be kept for each fasli year separately and in such form and shall contain such particulars as may be specified by ³[the Commissioner].
- (2) The accounts of every religious institution shall be audited by auditors

1. Clauses (a), (b) and (c) were substituted by Tamil Nadu Act 39 of 1996.

2. These words were substituted for the words "the Temple Administration Board or the Temple Administration District Committee" by Tamil Nadu Act 39 of 1996.

3. These words were substituted for the words "by the Temple Administration Board" by Tamil Nadu Act 39 of 1996.

appointed in the prescribed manner and such auditors shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (Central Act XLV of 1860).

- (3) The accounts of every religious institution, the annual income of which as calculated for the purposes of Section 92 for the fasli year, immediately preceding is not less than ¹[five lakhs rupees], shall be subject to concurrent audit, that is to say, the audit shall take place as and when the expenditure is incurred. The accounts of every other religious institution, the annual income of which calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, shall be audited annually, or if ²[the Commissioner] so directs in any case or class of cases at shorter intervals.
- (4) The accounts of any other religious institution, the annual income of which calculated as aforesaid for the fasli year immediately preceding is less than one thousand rupees shall be audited departmentally and no fee shall be levied therefor.
- (5) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent, and any person having concern in the administration of the institution,³[to produce before the auditors within such period as may be prescribed], all accounts, records, correspondence, plans and other documents and property and moneys relating to the institution to furnish them with such information as may be required, and to afford them all such assistance and facilities as may be necessary or reasonable and as may be required in regard to the audit of the accounts of the institution.

88. Authority to whom Audit Report is to be submitted.—

After completing the audit for any fasli year or shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report—

- ⁴[(a) to the Commissioner, in respect of Maths and specific endowments attached to Maths;
- (b) to the Joint Commissioner, Deputy Commissioner, in respect of institutions included in the list published under Section 46; and
- (c) to the Assistant Commissioner in respect of other institutions].

89. Contents of Audit Report.—

- (1) The auditor shall specify in his report all cases of irregular, illegal or

1. Substituted for the words "sixty thousand rupees" by Tamil Nadu Act 39 of 1996.

2. These words were substituted for the words "by the Temple Administration Board" by T.N. Act 39 of 1996.

3. These words were substituted for the words "to produce before the auditors" by Tamil Nadu Act 27 of 1974.

4. Substituted for Clauses (a) and (b) by Tamil Nadu Act 39 of 1996.

improper expenditure, or of failure to recover moneys due or other property belonging to the religious institution or of loss or of waste of money or other property thereof, caused by neglect or misconduct or misapplication or collusion or fraudulent transactions or breach of trust on the part of the trustee or any other person.

- (2) The auditor shall also report on such other matter relating to the accounts as may be prescribed, or on which '[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner]', as the case may be, may require him to report.

90. *Rectification of defects disclosed in audit and order of surcharge against trustee, etc.—*

- (1) ²[The Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to '[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner]', as the case may be.
- (2) If, on a consideration of the audit report and the report of the trustee and after such inquiry as may be necessary, '[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner]', as the case may be, thinks that the trustee or any other person was guilty of irregular, illegal or improper expenditure, or of loss or waste of money or other property thereof caused by failure to recover moneys due or other property belonging to the religious institution or by neglect or misconduct or misapplication or collusion or fraudulent transactions or breach of trust, '[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner]', as the case may be, may, after giving notice to the trustee or such person to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order certify the amount so spent or the amount or value of the property so lost or wasted and direct the trustee or such person to pay within a specified time such amount or value personally:

Provided that if, in respect of any expenditure or dealing with the property of the institution, the trustee or such person had obtained the directions of '[the Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner]', as the case may be, and had acted in accordance with such

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board or a Temple Administration District Committee" which were substituted by Tamil Nadu Act 46 of 1991 and 19 of 1993.

directions, he shall not be held liable.

- (3) '[The Commissioner, Joint Commissioner, Deputy Commissioner or Assistant Commissioner], as the case may be, shall forward a copy of the order under Sub-section (2) with the reasons for the same by registered post to the trustee or person concerned.
- (4) The trustee or other person aggrieved by such order may, within thirty days of the receipt by him of the order, either—
 - (a) apply to the Court to modify or set aside the order, and the Court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or
 - (b) *in lieu* of such application, may appeal to the Government which shall pass such orders as they think fit.
- (5) Neither the Court, nor the Government to which or to whom an application or appeal is made under Sub-section (4) shall have power to stay the operation of the order pending the disposal of the application or appeal.
- (6) An order of surcharge under this Section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.
- (7) The Collector of the district in which is situated any property of the trustee or other person from whom an amount is recoverable by way of surcharge shall, on a requisition made by '[the Commissioner], recover such amount as if it were an arrear of land revenue and pay the same to the religious institution concerned.
- (8) Where ²[the Commissioner] is satisfied that the trustee or other person with intent to defeat or delay the execution of any order that may be made under Sub-section (2) or Sub-section (4)—
 - (a) is about to dispose of the whole or any part of his property; or
 - (b) is about to remove the whole or any part of his property from the jurisdiction of ²[the Commissioner], ²[the Commissioner] may, unless adequate security is furnished, apply to the Court pending the decision of the Court or Government for conditional attachment of the said property or such part thereof, ³[as he thinks necessary.]

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board or a Temple Administration District Committee" which were substituted by Tamil Nadu Act 46 of 1991 and 19 of 1993.

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board or a Temple Administration District Committee" which were substituted by Tamil Nadu Act 46 of 1991 and 19 of 1993.

3. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "as it thinks necessary" which in turn were substituted for the words "as he thinks necessary" by Tamil Nadu Act 46 of 1991.

Notes

Section 90 of the Act deals with rectification of defects disclosed in audit and order of surcharge against trustees, etc.

Tortuous acts.

In *Venkatachala Gounder v. Commissioner, H.R. & C.E.* (1983) 2 M.L.J. 434, it was held that a trustee may be answerable for tortuous acts of his employees or agents but he cannot be surcharged vicariously unless there is proof of guilt against him.

Sections 90 (2), 33 (3) and 22

On account of the delay in the Government sanctioning fund for the conduct of a festival, the Executive Officer raised a loan on the deposit amount of the temple and conducted the festivals. The officer cannot be surcharged for the expenditure as the same was incurred for the temple. The officer could be surcharged if he incurred the expenditure for irregular, illegal or improper purposes involving loss or waste of property or that he misappropriated or used the money for personal benefits. *M. Thangarajan v. Dy. Commissioner, H.R. & C.E. Board Thanjavur*, (2004)2 C.T.C. 174.

91. Chapter to apply notwithstanding provision in scheme.—

The provisions of this Chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to have been settled under this Act.

CHAPTER IX

FINANCE

92. Religious institution to pay an annual contribution to the Government.—

(1) Every religious institution shall, from the income derived by it, pay to the Commissioner annually such contribution not exceeding ¹[eleven per centum] of its income as may be prescribed in respect of the services rendered by the Government and their officers and for defraying the expenses incurred on account of such services.

²[(2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under Sub-section (1), is not less than five thousand rupees, shall pay to the Commissioner annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income upto five lakh rupees and four per centum of its income if the income exceeds Rupees five lakhs, as the Commissioner may determine.]

(3) The annual payments referred in Sub-sections (1) and (2) shall be made,

1. Substituted for the words "seven per centum" by the words "ten per centum" by Tamil Nadu Act 2 of 1987 and the words "ten per centum" were substituted by the words "eleven per centum" by Tamil Nadu Act 39 of 1996.

2. Sub-section (2) was substituted by Tamil Nadu Act 39 of 1996.

notwithstanding anything to the contrary contained in any scheme settled or deemed to have been settled under this Act for the religious institution concerned.

(4) The Government shall pay the expenses incurred for the purposes of this Act, including the—

¹[(i) * * *]

(ii) expenses of Consultative Committees and sub-committees thereof, constituted by the Government or by any officer or authority subordinate to the Government specially authorised by them in this behalf.

(iii) cost of the publication of journals, books, annuals and descriptive accounts relating to religious institutions.

²[(iv) expenses of District Committees].

Notes

Chapter IX deals with Finance and Section 92 of the Act deals with religious institution to pay an annual contribution to the Government.

Realisation of Capital assets

In *Ambalavana Pandara Sannadhi, Thiruvaduthurai Adheenam v. Commissioner, H.R. & C.E.* (1980) 1 M.L.J. 373, it was held that capital assets realised by sale of Devasthanam property cannot be included in income.

93. Recovery of costs and expenses incurred on legal proceedings.—

Notwithstanding anything contained in Sub-section (1) of Section 102, all costs, charges and expenses incurred by the Government, ³[* * *] the Commissioner, ⁴[an Additional Commissioner], ⁵[a Joint Commissioner], a Deputy Commissioner ⁶[* * *] or an Assistant Commissioner as a party to, or in connection with, any legal proceeding in respect of any religious institution shall be payable out of the funds of such institution, except in cases where a liability to pay the same has been laid on any party or other person personally and the right to reimbursement under this Section has been negated in express terms.

94. Assessment and recovery of contributions, costs, charges and expenses.—

(1) The contributions, costs, charges and expenses payable under Sections 92 and 93 shall be assessed on and notified to the trustee of the religious institution concerned in the prescribed manner:

1. Sub-section 4(i) was omitted by Tamil Nadu Act 19 of 1968.

2. Clause (iv) was substituted by Tamil Nadu Act 39 of 1996.

3. The words "the Temple Administration Board, a Temple Administration District Committee" as inserted by Tamil Nadu Act 46 of 1991 and 19 of 1993 were subsequently omitted by Tamil Nadu Act 39 of 1996.

4. Inserted by Tamil Nadu Act 50 of 2002.

5. Inserted by Tamil Nadu Act 18 of 1993.

6. The words "Area Committee" were omitted by Tamil Nadu Act 19 of 1968.

Provided that if for any reason, any portion of the contribution, costs, charges and expenses has escaped assessment, the Commissioner may, within the prescribed period, serve on the trustee a notice assessing him to the portion of the contribution, costs, charges or expenses, as the case may be, due and demanding payment thereof within fifteen days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if the assessment was made in the first instance.

- (2) (a) Such trustee may, within fifteen days from the date of the receipt of the notice under Sub-section (1) or under the *proviso* thereto or within such further time as may be granted by the Commissioner, prefer his objection thereto, if any, to the Commissioner in writing. Such objection may relate either to his liability to pay or to the amount specified in the notice. The Commissioner shall consider such objection and give his decision confirming, withdrawing, or modifying his original notice.
- (b) Within one month from the date of the receipt of the notice of assessment, or when an objection has been preferred, within one month from the date of the decision of the Commissioner, or within such further time, as may be granted by him, such trustee shall pay the amount specified in the notice under Sub-section (1) or under the *proviso* thereto or the amount as fixed by the Commissioner on objection.
- (3) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the district in which any property of the religious institution is situate shall, on requisition made to him in the prescribed manner by the Commissioner and subject to the provisions of this Section, recover such amount as if it were an arrear of land revenue.
- (4) (a) On receipt of a requisition under Sub-section (3), the Collector shall issue a notice to the trustee concerned—
 - (i) requiring him, within fifteen days from the date of the service thereof, to pay the amount mentioned in the requisition and specified in the notice; and
 - (ii) stating that on default, such amount will be recovered as if it were an arrear of land revenue;
- (b) if, within the period of fifteen days aforesaid, the amount demanded is not paid, the Collector shall proceed to recover the amount specified in the notice (with the charges of collection) as if it were an arrear of land revenue.
- (5) The Collector shall, on receipt of a requisition under Sub-section (3), withhold the amount mentioned therein out of the *tasdik* or any other allowance or amount payable by the Government to the religious institution concerned but where the *tasdik* or other allowance or amount is

insufficient for the purpose, the Collector shall withhold the tasdik or other allowance or amount available and recover the balance as if it were an arrear of land revenue.

- (6) Places of worship, including temples and tanks and places where utsavams are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of Sub-sections (3), (4) and (5).
- (7) Instead of selling the property after attachment thereof under the provisions of the '[Tamil Nadu] Revenue Recovery Act, 1864 ('[Tamil Nadu] Act II of 1864), it shall be open to the Collector at the instance of the Commissioner to appoint a Receiver to take possession of the property or such portion thereof as may be necessary and collect the income thereof until the amount sought to be recovered is realized. The remuneration, if any, paid to the Receiver, and the other expenses incurred by him shall be paid out of the income of the institution concerned.
- (8) No suit, prosecution or other legal proceeding shall be entertained in any Court of law against the Government or any officer or servant of the Government for anything done or intended to be done in good faith in pursuance of this Section.

95. Contributions not to be levied in certain cases.—

It shall not be competent for the Commissioner to levy any contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under Section 94.

CHAPTER-X

ENDOWMENTS ADMINISTRATION FUND

96. Religious and Charitable Endowments Administration Fund.—

- (1) There shall be established a Fund to be called the ²[Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund]. The Fund shall vest in the Commissioner.
- (2) The assets which devolved on the Government under Section 101 of the '[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951

1. This word was substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. This expression was substituted for the expression "Madras Hindu Religious and Charitable Endowments Administration Fund" by paragraph 3(1) of, and the Schedule to, the Tamil Nadu Adaptation of Laws Order, 1970.

(¹[Tamil Nadu] Act XXI of 1951), the sums which may be transferred to the Commissioner by the Government, the sums due to the Government under the said Act, the contributions payable under Sub-section (1) of Section 92 and the further sums payable under Sub-section (2) of Section 92 shall, when realized, be credited to the said Fund. It shall be lawful for the Commissioner to accept to the credit of the said Fund grants or loans from the Government and grants from any private person. The Commissioner shall, out of the said Fund, repay to the Government sums paid by the Government under Sub-section (4) of Section 92 and loans received from the Government.

97. *Creation of Hindu Religious and Charitable Endowments Common Good Fund.*—

- (1) It shall be lawful for ²[the Commissioner] to create a Fund to be called the Hindu Religious and Charitable Endowments Common Good Fund ³[hereinafter in this Section referred to as the said Fund], out of the contributions voluntarily made by the religious institutions from their surplus funds or by any person for the renovation and preservation of needy temples and their ⁴[buildings and paintings, for the promotion and propagation of tenets common to all or any class of religious institutions and for any of the purposes specified in Sub-section (1) of Section 66.]
- ⁵[(1-A) ²[The Commissioner] may, on a direction from the Government, transfer to the said Fund, any surplus or such portion thereof, as may be specified in the direction, remaining in the ⁶[Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund] after the repayment of the amounts specified in Sub-section (2) of Section 12 and Sub-section (2) of Section 96].
- (2) The said Fund shall be vested in and as such administered by ²[the Commissioner] in such manner as may be prescribed.

1. Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

3. These brackets and words were inserted by Section 2(a) (i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1967 (Tamil Nadu Act 23 of 1967).

4. This expression was substituted for the expression "buildings and paintings and for the promotion and propagation of tenets common to all or any class of religious institutions" by Section 2(a) (ii) of Tamil Nadu Act 23 of 1967.

5. This Sub-section was inserted by Section 2(b) of Tamil Nadu Act 23 of 1967.

6. This expression was substituted for the expression "Madras Hindu Religious and Charitable Endowments Administration Fund" by paragraph 3(1) of, and the Schedule to, the Tamil Nadu Adaptation of Laws Order, 1970.

'[CHAPTER-X-A]

DEVASWOM FUND

97-A. *Maintenance of Incorporated Devaswoms out of Devaswoms Fund.—*

The Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47 shall, out of the Devaswom Fund established under Sub-section (1) of Section 112 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and referred to in Section 97-B, maintain the Incorporated Devaswoms, keep in a state of good repair the temples, buildings and other appurtenances thereto, administer the said Devaswoms in accordance with the recognised usages, make contributions to other Devaswoms in the transferred territory and meet the expenditure for the customary religious ceremonies and may provide for the educational uplift, social and cultural advancement and economic betterment of the Hindu community.—

97-B. *The Devaswom Fund.—*

The Devaswom Fund shall consist of—

- (1) the sum of thirteen lakhs and fifty thousand rupees mentioned in Article 290-A of the Constitution of India as payable to the Devaswom Fund in the State of Tamil Nadu and the share of the Devaswom Surplus Fund mentioned in Sub-section (2) of Section 112 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) transferred to the said Devaswom Fund;
- (ii) the moneys realised, from time-to-time, by the sale of movable properties belonging to the said Devaswoms;
- (iii) all voluntary contributions and offerings made by devotees;
- (iv) profits and interests received from investments of funds belonging to the said Devaswoms; and
- (v) all other moneys belonging to, or other income received by, the said Devaswoms.

97-C. *Devaswom Surplus Fund and its administration.—*

The unspent balance of each year out of the Devaswom Fund referred to in Section 97-B or such portion of it, as may be determined by the Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47 and approved by ²[the Commissioner] shall be added on to the Devaswom Surplus Fund. The Devaswom Surplus Fund shall be administered, subject to the direction and control of ²[the Commissioner.]

1. Chapter X-A was inserted by Section 9 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

97-D. Devaswom properties.—

Immovable properties entered or classed in the revenue records as Devaswom Vaga or Devaswom poramboke and such other Pandaravaka lands as are in the possession or enjoyment of the Incorporated Devaswoms after the - 30th Meenam, 1097 corresponding to the 12th April, 1922 shall be dealt with as Devaswom properties. The provisions of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) shall be applicable to Devaswom lands as in the case of Government lands.

97-E. Unincorporated Devaswoms.—

The properties and Funds of the Unincorporated Devaswoms shall be kept distinct and separate as heretofore and shall not be utilised except for the purposes of those Devaswoms.

Explanation I.—The sum of eighteen thousand rupees paid annually by the Government to the Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47 by virtue of Section 14 of the Kanyakumari Sree Pandaravaka Lands (Abolition and Conversion into Ryotwari) Act, 1964 (Tamil Nadu Act 31 of 1964), shall be deemed to be the funds of the Unincorporated Devaswoms mentioned in Part II of Schedule II.

Explanation II.—The sum of two thousand rupees paid annually by the Government to the Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47 by virtue of Section 28 of the Kanyakumari Sreepadam Lands (Abolition and Conversion into Ryotwari) Act, 1972 (Tamil Nadu Act 11 of 1973), shall be deemed to be the funds of the Unincorporated Devaswoms mentioned in Part II of Schedule II.

CHAPTER - XI**MISCELLANEOUS****98. Public Officers to furnish copies of or extracts from certain documents.—**

Notwithstanding anything contained in any Act, or rule having the force of law, all public officers having custody of any record, register, report or other document relating to a religious institution or any movable or immovable property of such institution, shall furnish such copies of or extracts from the same as may be required by ¹[***] the Commissioner, ²[the Additional Commissioner], ³[Joint Commissioner], Deputy Commissioner ⁴[* * *] or Assistant Commissioner.

1. The words "the Temple Administration Board, a Temple Administration District Committee" as inserted by Tamil Nadu Act 46 of 1991 and 19 of 1993 were subsequently omitted by Tamil Nadu Act 39 of 1996.

2. Inserted by Tamil Nadu Act 50 of 2002.

3. Inserted by Tamil Nadu Act 18 of 1993.

4. The words "Area Committee" were omitted by Tamil Nadu Act 19 of 1968.

99. Power to inspect.—

¹[***] The Commissioner, ²[the Additional Commissioner] ³[a Joint Commissioner] or a Deputy Commissioner or an Assistant Commissioner, shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times, to inspect in any public office any record, register or other document, relating to a religious institution, or any movable or immovable property of such institution.

100. Bequest under Will for benefit of religious institution.—

- (1) Where under any Will, a bequest has been made in favour of a religious institution or where such bequest itself creates a religious institution, it shall be the duty of the executor under the Will to forward a copy thereof to ⁴[the Joint or Deputy or Assistant Commissioner of the division], where such Will may have been or is required to be registered.
- (2) No probate of any such Will or letters of administration with such Will annexed shall be granted by any Court unless it is satisfied that a copy of such Will has been forwarded to the ⁴[Joint Commissioner, Deputy Commissioner or Assistant Commissioner] as provided by Sub-sec. (1).

101. Putting Trustee or Executive Officer in possession.—

- (1) Where a person has been appointed—
 - (a) as trustee or Executive Officer of a religious institution; or
 - (b) to discharge the functions of a trustee of a religious institution in accordance with the provisions of this Act, in any scheme framed by the Board before the 30th September, 1951, and such person is resisted in, or prevented from, obtaining possession of the religious institution or of the records, accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant, not being a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee, officerholder or servant, any *Presidency Magistrate or any Magistrate of the first class in whose jurisdiction such

1. The words "the Temple Administration Board, a Temple Administration District Committee" as inserted by Tamil Nadu Act 46 of 1991 and 19 of 1993 were subsequently omitted by Tamil Nadu Act 39 of 1996.

2. Inserted by Tamil Nadu Act 50 of 2002.

3. Inserted by Tamil Nadu Act 18 of 1993.

4. Substituted by Tamil Nadu Act 39 of 1996.

* According to clauses (a) and (c) of Sub-section (3) of Section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any reference to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate with effect on and from 1st April 1974.

institution or property is situated shall, on application by the person so appointed, and on the production of the order of appointment, and where the application is for possession of property, of a certificate by ¹[the Commissioner] in the prescribed form setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts and properties thereof, as the case may be:

Provided however that, before issuing any such certificate in respect of any property, ¹[the Commissioner] shall give notice to the trustee, officer-holder or servant of the religious institution, as the case may be, ²[of his intention] to issue the certificate and consider the objections, if any, of such trustee, officer-holder or servant:

Provided further that for the purpose of proceedings under this Sub-section, the certificate aforesaid shall be conclusive evidence that the properties to which it relates belong to the religious institution:

Provided also that nothing contained in this Sub-section shall bar the institution of a suit by any person aggrieved by an order under this Sub-section for establishing his title to the said property.

Explanation.—A person claiming under an alienation contrary to the provisions of Section 34 or 41 shall not be regarded as a person claiming in good faith within the meaning of this Sub-section.

- (2) The *Presidency Magistrate or the Magistrate of the first class referred to in Sub-section (1) may, pending disposal of an application for directing delivery to the person appointed of the possession of the properties mentioned in the certificate by ¹[the Commissioner], appoint a Receiver to take possession of such properties or such portion thereof as may be necessary. The remuneration, if any, paid to the Receiver and other expenses incurred by him shall be paid out of the income of the religious institution concerned.

Notes

Section 101 of the Act deals with putting trustee or Executive Officer in possession. Sub-section (2) specifies that pending disposal of application for delivery, the Presidency Magistrate or the Magistrate of the first class, may appoint a receiver to take possession of

1. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "the Temple Administration Board" which in turn were substituted for the words "the Commissioner" by Tamil Nadu Act 46 of 1991.

2. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "of its intention" which in turn were substituted for the words "of his intention" by Tamil Nadu Act 46 of 1991.

* According to Clauses (a) and (c) of Sub-section (3) of Section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any reference to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate with effect on and from 1st April 1974.

such properties or such position thereof as may be necessary. For certificate, See *Subramania Gounder v. Kandaswami*, (1964)2 M.L.J. 298. The remuneration, if any, paid to the receiver and other expenses incurred by him shall be paid out of the income of the religious institution concerned.

Magistrate under this provision acts as *persona designata* and not as a Court, *Murugesu Mudaliar v. Ramachandran*, (1967)1 M.L.J. 379

The right remedy of a person aggrieved by an order made under Section 101 of the Act is to ask for its revision under Code of Criminal Procedure and not to file C.R.P. under Art. 227 of the Constitution of India, *Sambandam v. Kandasami Padayachi*, (1970)2 M.L.J. 368, See *Murugesu Mudaliar v. Ramachandran*, (1967)1 M.L.J. 376.

Delivery of possession of religious institution

In *Subramania Gounder v. Kandaswami*, (1964)2 M.L.J. 298, it was held that "the three units: religious institution, or the records, accounts and properties" mentioned in Section 101 should be taken disjunctively and the certificate prescribed in that Section should be confined only to property as such but no certificate will be required for delivery of possession of the religious institution as well as its records and accounts.

Absence of name of the person.

In *Ponnuswamy Padayachi v. Nallamuthu Padayachi*, (1966)2 M.L.J. 371, it was held that generally speaking, Magistrate has no jurisdiction to question the legality or correctness of the certificate but the proposition is not absolute and in certain circumstances Magistrate can refuse to give effect to certificate if he finds that it suffers from a basic defect which prevents its implementation such as the absence of the name of the person against whom it is issued.

See *Chidambaram in re.* (1958)1 M.L.J. 314; *Shanmugham v. Munuswami*, (1959)1 M.L.J. 144. *Rathinaswamy v. Subramanian*, (1964)1 M.L.J. 244; *Subbu Chetty v. Munuswami Chetty* (1957)2 M.L.J. 161. *Mohan Ram v. Sundaramier*, (1960)2 M.L.J. 30; *Subbaraya Mudaliar v. Naimuthu* (1965)1 M.L.J. 359.

Resignation of trustee not accepted

Where the resignation of the fifth trustee was not accepted by the Commissioner on the date of application for delivery, such application is not maintainable.

Kuppayandi Pillai v. Veerakutti Gounder, (1966)2 M.L.J. 152.

See *Angappan v. DC H.R. & C.E.*, (1965) 1 M.L.J. 151.

Procedure

In *Bala Subramania Mudaliar v. Doraikannu Ammal*, (1965)2 M.L.J. 549, it was held that Sec. 101 of the Act exempts from summary procedure under it only persons claiming in good faith to be in possession of the properties on their own account but merely because a person claims to be a hereditary trustee, it is no ground to deny summary procedure and such persons may have other remedies but they will not be entitled to resist an application by the lawfully appointed trustee to recover possession of temple properties.

Otherwise not entitled to be in possession

The meaning of “otherwise not entitled to be in possession” had been explained in *Subbaraya Mudaliar v. Nachimuthu Mudali*, (1951)1 M.L.J. 359.

Chairman of Board of Trustees

In *Angappan v. D.C. H.R. & C.E.*, (1965)1 M.L.J. 151, it was held that an application for the issue of a certificate under Sec.101 of the Act by one of the trustees where there are more than one, even if he happens to be the Chairman of the Board of Trustees or the Managing Trustee would be incompetent and the entire body of trustees should apply.

102. Cost of proceedings, etc.—

- (1) The costs, charges and expenses of, and incidental to, any suit, appeal or application to a Court under this Act, shall be in the discretion of the Court, which may, subject to the provisions of Section 93, direct the whole or any part of such costs, charges and expenses to be met from the property or income of the religious institution or endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.
- (2) The costs, charges and expenses of, and incidental to, any appeal, application or other proceeding before ¹[* * *] the Commissioner, ²[a Joint Commissioner or a Deputy Commissioner] shall be ³[in his discretion and he] shall have full power to determine by whom or out of what funds and to what extent such costs, charges and expenses are to be paid; and the order passed in this regard may be transferred for execution to the Court and shall be executed by the Court as if the order had been passed by itself if and in so far as the Court considers the order to be a reasonable one.

103. Trustee not to lend or borrow moneys without sanction.—

No trustee shall either lend moneys of, or borrow moneys for the purpose of, or on behalf of, the religious institution of which he is the trustee except with the sanction of such authority and subject to such conditions and limitations as may be prescribed.

Explanation.—For the purposes of this Section, trustee includes the Executive Officer or other person in whom the administration of a religious institution is vested.

1. The words “the Temple Administration Board or a Temple Administration District Committee” were omitted by Tamil Nadu Act 39 of 1996.

2. Substituted for the words “a Deputy Commissioner” by Tamil Nadu Act 38 of 1995.

3. Substituted for the words “in its or his discretion, as the case may be and it or he, as the case may be” by Tamil Nadu Act 39 of 1996.

104. Court-fees to be paid as prescribed by Schedule.—

Notwithstanding anything contained in the '[Tamil Nadu] Court-fees and Suits Valuation Act, 1955 (1[Tamil Nadu] Act XIV of 1955), the proper fees for the documents described in columns (1) and (2) of ²[Schedule III] shall be the fees indicated in column (3) thereof.

105. Saving.—Nothing contained in this Act shall—

- (a) save as otherwise expressly provided in this Act or the rules made thereunder, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution, or its established usage in regard to any other matter; or
- (b) authorize any interference with the religious and spiritual functions of the head of a Math including those relating to the imparting of religious instruction or the rendering of spiritual service.

Notes

Section 105 of the Act deals with savings.

Appointment of successor of Mutt—In *His Holiness sri-la-sri Ambalavana Pandara Sannathi Avergal v. State of Tamil Nadu*, A.I.R. 1983 Mad. 72, where Commissioner issued notice to the Head of the Mutt questioning appointment of the successor, it was held that such notice was without authority and the entire ceremony of initiation and investiture is wholly religious and spiritual and no part of it is secular or administrative and Section 105 (b) affords protection to the Mutts in respect of religions and spiritual functions which obviously include nomination and customary ceremonies for ordainment.

106. Removal of discrimination in the distribution of prasadams or theerthams.—

Notwithstanding anything in this Act or in any text, rule or interpretation of Hindu law or any custom or usage as part of that law or in any other law or in any decree of Court, there shall be no discrimination in the distribution of any *Prasadam* or *Theertham* in any religious institution on grounds only of caste, sex, place of birth or any of them.

Explanation.—In this Section—

- (a) “Prasadam” means any cooked rice or other eatable, any fruit, flower, leaf, vibuthi, kumkumam, tulsi, vilvam, turmeric, sandalpaste and includes such other things as the Government may, by notification, specify;
- (b) “Theertham” means sacred water, jaggery water or milk and

1. Substituted for the word “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. Substituted for the words “the Schedule” by Tamil Nadu Act 50 of 1974.

includes such other liquid as the Government may, by notification, specify.

107. Act not to affect rights under Article 26 of the Constitution.—

Nothing contained in this Act shall, save as otherwise provided in Section 106 and in Clause (2) of Article 25 of the Constitution, be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any Section thereof by Article 26 of the Constitution.

Notes

Section 107 of the Act deals with Act not to affect rights under Art.26 of the Constitution See *Sri Adi Vishveshwar of Kasi Viswanath Temple v. State of U.P.* (1997)4 S.C.C. 606; *Sethammal v. State of Tamil Nadu* (1972)3 S.C.R. 818; *Adithyan v. The Travancore Dewaswom Board*, (2002)6 S.C.C. 106.

Vellala community not denominational

In *Nallaor Marathandam Vellalar v. Commissioner H.R. & C.E.* (2003)10 S.C.C. 712; it was held that Vellala community not being denominational, they are not entitled to claim protection under Article 26 of the Constitution or under Section 107 of the Act.

Denominational temple and contribution and audit fee

In *Tamarakulam Vellala Samudhayam Arya Kulasekara Nangai Amman Temple Trustee Subramania Pillai v. State of Tamil Nadu*, (1980)2 M.L.J. 358, it was held that the plaintiff is entitled to a declaration that the temple is a denominational temple and even in respect of denominational temples authorities under the Act would have jurisdiction to levy contribution and audit fee.

Denominational religious institution

In *Muthiah Asari v. Madasami Asari*, (1965)2 M.L.J. 220, it was held that the right of any corporate body with regard to a denominational religious institution, to have its functions preserved from invasion under Art. 26 of the Constitution has been statutorily embodied in Section 107 of the Act.

108. Bar of suits in respect of administration or management of religious institutions, etc.—

No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.

Notes

Section 108 of the Act deals with bar of suits in respect of administration or management of religious institutions, etc., Administration or management. See *Vythinatha Pandara Sannadhi v. Ranganatha Mudaliar*, I.L.R. 57 Mad. 362.

Sastri Ammal v. Pravala Varna Naicker, (1955)2 M.L.J. 612; *Kattayam Achary v. Rangaswamy Achary*, (1959)1 M.L.J. 123; *Subboraya Mudali v. Velappa Mudali*, (1958)2 M.L.J. 591.

Suit for possession from alienees of trust property on the ground that alienations are void can be maintained *Kasthuri v. Sundararaja Perumal Devasthanam*, (1996)1 M.L.J. 208 .

Composite endowment

In *Rajeevalochanchar v. Ramachar*, A.I.R. 1988 Mad. 227, it was held that a suit under Section 92, C.P.C. for framing scheme in relation to composite endowment, is not barred.

Supervision and administration of religious endowment

In *AVSP Chettiar & Sons v. Palaniswami Gounder*, A.I.R. 2002 S.C. 217, it was held that under the Act the supervision and administration of religious endowments are vested in the officials specified under the Act.

Carrying deity

In *Munrandi v. Arulmigu Mangalanathaswami Temple*, A.I.R. 1982 Mad.170 it was held that carrying deity from one temple to another is not a ritual.

Suit by beneficiaries

In *Muruga Konar v. Seetha Konar*, A.I.R. 1989 S.C. 2102, it was held that a suit by beneficiaries against trustees for rendition of accounts is not barred by this provision.

Provision made in the Act and Bar of jurisdiction of Civil Court

The Principles on which the jurisdiction of Civil Court is excluded under Sec.108 of the Act are now well settled. If the dispute raised in the suit relates to the administration or management of a religious institution or any other matter for the determination of which a provision has been made in the Act, the bar under Sec.108 will be attracted; on the other hand, if the question arising for adjudication falls outside the scope and ambit of Sec.108 then Civil Court will have jurisdiction to entertain the suit, *Sri Vallaba Ganesar Devasthanam Sannadhi Street Thiruvannamalai v. Anandavadivelu Mudaliar*, (1980)1 M.L.J. 140.

LRs of Former Trustee in unlawful possession of trust properties

In *Krishamoorthy v. Krishamachary*, (1976)1 M.L.J. 204, it was held that a suit by present trustee against legal representatives of former trustee who unlawfully confined in possession of trust properties, not barred under the provisions of the Act.

Declaration that temple is denominational

A suit for declaration that a particular temple is a denominational temple within Art. 26 of the Constitution of India is maintainable in a Civil Court, *Sankara Kumara Nadar v. A. C. H R & C.E.*, (1975)1 M.L.J. 12

Relief not sole criterion

In *Thiruvengada Varadachariar v. Srinivasa Iyengar*, (1973)1 M.L.J. 266, it was held that form of relief is not the sole criterion to decide the question of maintainability of the suit and the plaint may have to be read as a whole for this purpose.

Razinama Decree

In *Tirumalayappa Pillai v. Ramasubramania Pillai*, (1970)2 M.L.J. 282, it was held that a suit for declaration that suit properties are endowed kattalai properties and defendants are claiming by virtue of *Razinama* decree to which plaintiff was not a party without a prayer for setting aside *Razinama* decree, such suit is barred.

Sections 63 and 108 of the Act

In *Ponnaiah Nadar v. Chellan Nadar*, (1970)2 M.L.J. 526, it was held that it is true that initial jurisdiction to determine the question whether a temple and its properties constituted a public trust lies with the Deputy Commissioner under Sec.63 of the Act. Notwithstanding Sec.108 of the Act where the dispute relating to a temple was only between two private parties and H.R. & C.E. Board was not directly concerned, a Civil Court had jurisdiction to try the suit.

Deed of Arrangement

In *Commissioner H.R. & C.E. v. Subramania Ayyar (deceased) and other* (1995)1 M.L.J. it was held by the Division Bench that a suit for declaration that deed of arrangement is not binding, can be maintained in Civil Court.

Not a party to a decree and Limitation

In *Hindu Baktha Jana sabai v. State of Tamil Nadu*, (1988)3 M.L.J. 337, it was held that where a decree passed in 1967 became final, by merely contending that plaintiff was not a party and then seeking declaration that decree is without jurisdiction is of no consequence, so far as the bar of limitation for a remedy is concerned.

Under the trust created in 1925, the trustee accepted his position as trustee. The provisions of the Act were extended to the trust in 1962. The trustee accepted his positions in various documents, by referring to the deed of trust. The department in proceedings removed him from trusteeship and appointed a fit person. In the case of public charitable trust, a trustee cannot prescribe title to the trust properties by adverse possession. His legal representatives and assignees would not be in a better position. Once the position of trustee is accepted, the trustee cannot claim title by adverse possession. Section 109 substituted in 1951 is a special provision regarding the applicability of the law of limitation to religious endowments. Since the deed of alienation was executed by the trustee after the law was amended, the suit trust properties would not vest in the transferees. The suit is also filed within 12 years of the alienation and is in time, *Kalia Pillai (died) & other v. Kathayee Ammal Dharam (Charities) rep. by its Executive Officer, the Executive Officer of Sri Arunachaleswarar Devasthanam Thiruvannamalai & others*, (2003)3 M.L.J. 122.

109. Central Act 36 of 1963, not to apply for recovery of properties of religious institution.—

Nothing contained in the Limitation Act, 1963 (Central Act 36 of 1963) shall apply to any suit for possession of immovable property belonging to any religious institution or for possession of any interest in such property.]

Notes

Section 109 of the Act was substituted by Act 28 of 2003 and this provision deals with Central Act 36 of 1963 not to apply for recovery of properties of religious institution.

Suit for recovery of possession and future profits.

In *Rajanarayana Perumal Temple v. Rethinam Pillai*, (1979)1 M.L.J. 159, the question of Limitation in relation to a suit for recovery of possession and future profits had been dealt with.

110. Procedure and powers at inquiries under Chapters V and VI.—

- (1) Where a Commissioner ²[or a Joint Commissioner or a Deputy Commissioner] makes an inquiry or hears an appeal under Chapter V or Chapter VI, the inquiry shall be made and the appeal shall be heard, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act V of 1908) to the trial of suits or the hearing of appeals, as the case may be.
- (2) The provisions of the Indian Evidence Act, 1872 (Central Act I of 1872) and the Indian Oaths Act, 1873 (Central Act X of 1873), shall apply to such inquiries and appeals.
- (3) The Commissioner ¹[or a Joint Commissioner or a Deputy Commissioner] holding such inquiry or hearing such an appeal shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (Central Act XVIII of 1850).

Notes

Section 110 of the Act deals with procedure and powers at inquiries under Chapters V and VI.

111. Notifications, orders, etc., under Act not to be questioned in Court of Law.—

Save as otherwise expressly provided in this Act, no notification or certificate issued, order passed, decision made, proceedings or action taken, scheme settled, or other things done under the provisions of this

1. Substituted by Tamil Nadu Act 28 of 2003. Before substitution, Section 109 read as follows:

109. Property of religious institution not to vest under the law of limitation after the 30th September, 1951.—Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor-in-title before the 30th September, 1951.

2. Substituted for the words “or a Deputy Commissioner” by Tamil Nadu Act 38 of 1995.

Act by the Government, ¹[* ***] the Commissioner ²[or the Additional Commissioner], ³[or a Joint Commissioner] or a Deputy Commissioner, ⁴[* * *] or an Assistant Commissioner shall be liable to be questioned in any Court of Law.**

⁵[112-113. * * *]

⁶[113-A. *Power of Government to direct disposal of appeal or revision pending before the Commissioner by a judicial officer.*—

- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Government may, by notification, direct that any appeal or revision pending before the Commissioner under this Act shall be disposed of by a judicial officer not below the rank of Subordinate Judge.**
- (2) For the purposes of this Section, the officer referred to in Sub-sec.(1) shall have all the powers of the Commissioner under this Act and any decision or order passed by such officer under this Section shall be deemed to be a decision or order passed by the Commissioner under this Act].**

Notes

Section 113-A of the Act was introduced by Section 4 of (Second Amendment) Act, Act 40 of 1961 and this provision deals with power of Government to direct disposal of appeal or revision pending before the Commissioner by a judicial officer.

Non-Hindu Judicial officer

In *Dharma Mudhali v. Abdullah, Principal Subordinate Judge, Vellore*, (1963)2 M.L.J. 211, it was held that Sec.133-A of 1959 Act as introduced by Amending Act XL of 1961, does not prohibit a non-Hindu Judicial officer from disposing of appeal transferred to him.

114. *Power of Government to call for records and pass orders.*—

- (1) The Government may call for and examine the record of, ⁷[the Commissioner], ⁸[or the Additional Commissioner] or any Joint or Deputy or Assistant Commissioner ⁹[***] or of any trustee in respect of any**

1. The words "the Temple Administration Board or a Temple Administration District Committee" were omitted by Tamil Nadu Act 39 of 1996.

2. Inserted by Tamil Nadu Act 50 of 2002.

3. Inserted by Tamil Nadu Act 18 of 1993.

4. The words "an Area Committee" were omitted by Tamil Nadu Act 19 of 1968.

5. Sections 112 and 113 were omitted by Section 31 of the Tamil Nadu Act 19 of 1968.

6. This Section was inserted by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1961 (Tamil Nadu Act 40 of 1961).

7. Substituted for the words "the Commissioner or any Deputy or Assistant Commissioner" by Tamil Nadu Act 18 of 1993.

8. Inserted by Tamil Nadu Act 50 of 2002.

9. The words "of an Area Committee" were omitted by Section 32 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

proceeding, not being a proceeding, in respect of which a suit or an appeal or application to a Court or an appeal to the Government is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

- (2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under Sub-section (1) in respect thereof.
- (3) No application to the Government for the exercise of their power under this Section shall be made in respect of any matter unless an application had already been made in respect of the same matter to the Commissioner under Section 21 and had been disposed of by him.
- (4) Every application to the Government for the exercise of their power under this Section shall be preferred within three months from the date on which the order or proceeding to which the application relates was communicated to the applicant.

114-A. Power of Government to review.—

- (1) The Government may either on their own motion or on application by any person aggrieved by an order of the Government under item (iii) of Clause (a) or the second *proviso* to Clause (a) of Sub-section (1) of Section 47 or the second *proviso* to Sub-section (1) of Section 49, review any such order,—
 - (a) on the basis of the discovery of new and important facts—
 - (i) which were not then within the knowledge of the Government when the order was made; or
 - (ii) which, after the exercise of due diligence, were not then within the knowledge of the applicant or could not be produced by him when the order was made; or
 - (b) on the basis of some mistake or error apparent on the face of the record; or
 - (c) for any other sufficient reason, and pass such order thereon as they think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter:

1. Section 114-A was originally inserted by Tamil Nadu Act 42 of 1978 and omitted by Tamil Nadu Act 46 of 1991 and again reinserted by Tamil Nadu Act 39 of 1996.

Provided further that no application for review shall be preferred more than once in respect of the same order.

- (2) Every application for review shall be preferred within such time and in such manner as may be prescribed.
- (3) The decision or order passed on the application for review shall be final.
- (4) The Government may pass such interlocutory orders pending the decision on the application for review as the Government may deem fit.
- (5) The Government may award costs in any proceedings for review to be paid by the applicant as they deem fit.

115. Limitation.—

In computing the period of limitation prescribed under this Act for any proceeding, suit, appeal or application for revision against any order or decree passed under this Act, the time requisite for obtaining a certified copy of such order or decree shall be excluded.

Explanation.—For the purposes of this Section, order includes any annexure to such order.

116. Power to make rules.—

- (1) The Government may, by notification, make rules to carry out the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for—
 - (i) all matters expressly required or allowed by this Act to be prescribed;
 - (ii) the form and manner in which applications and appeals should be submitted to the Government, ¹[***] ²[the Commissioner or the Additional Commissioner] ³[or a Joint Commissioner] or a Deputy Commissioner or Assistant Commissioner;
 - (iii) the powers of the Government, ¹[***] ²[the Commissioner or the Additional Commissioner], or ³[a Joint Commissioner] or a Deputy Commissioner, ⁴[or an Assistant Commissioner] to hold inquiries, to summon and examine witnesses and to compel the production of documents;

1. The words "Temple Administration Board, a District Committee" were inserted by Tamil Nadu Act 46 of 1991 and the words "District Committee" were substituted by the words "Temple Administration District Committee" by Tamil Nadu Act 19 of 1993. Subsequently, these words were omitted by Tamil Nadu Act 39 of 1996.

2. Substituted for the words "the Commissioner" by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 2002 (Tamil Nadu Act 50 of 2002).

3. Added by Tamil Nadu Act 18 of 1993.

4. Substituted for the words "an Assistant Commissioner or an Area Committee" by Tamil Nadu Act 19 of 1968.

- (iv) the inspection of documents and the fees to be levied for such inspection;
- (v) the fees to be levied for the issue and service of processes and notices;
- (vi) the grant of certified copies and the fees to be levied therefor;
- (vii) the budgets, reports, accounts, returns or other information to be submitted by trustees;
- (viii) the convening of meetings of trustees and the quorum for the conduct of business at such meetings;
- (ix) the manner in which the opinions of trustees shall be ascertained otherwise than at meetings;
- (x) the proper collection of the income of, and the incurring of expenditure by, religious institutions;
- (xi) the custody of the moneys of religious institutions, their deposit in, and withdrawal from, banks and the investment of such moneys;
- (xii) the custody of jewels and other valuables and documents of religious institutions and the conditions and restrictions subject to which the jewels and other valuables of religious institutions may be disposed of;
- '[(xii-a) the manner in which the persons (including the State Trading Corporation) to whom the conditions and restrictions subject to which, movable properties of any religious institution including human hairs and other articles received as offerings in the religious institution, shall be sold or otherwise disposed of;]
- (xiii) the manner in which and the period for which leases of properties of religious institutions shall be made;
- (xiv) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and the form and contents of the auditor's report;
- (xv) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied;
- (xvi) the security, if any, to be furnished by officers and servants employed for the purposes of this Act;
- (xvii) the preservation, maintenance, management and improvement of the properties and buildings of religious institutions including architectural, sculptural and epigraphical features;

1. This Clause was inserted by Section 2 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendments) Act, 1974 (Tamil Nadu Act 26 of 1974).

- (xviii) the inspection and supervision of the properties and buildings of religious institutions, the reports to be submitted by persons making such inspection and supervision and the fees leviable for such inspection, supervision and report;
- (xix) the preservation of the images in temples;
- (xx) the grant of travelling and halting allowances ¹[***] to the trustees;
- ²[(xxi) the grant of travelling and halting allowances to the members of—
 - (a) the Advisory Committee;
 - (b) the District Committee;
 - (c) the Consultative Committee or Sub-committee thereof constituted under Sub-section (4) of Section 92.]
- (xxii) the preparation and sanction of the estimates and acceptance of tenders, in respect of public works and for supplies in religious institutions;
- ³[(xxiii) the qualifications to be possessed by the officers and servants for appointment to offices in religious institutions and the conditions of service of all such officers and servants];
- (xxiv) the manner of proof of the fact that a person professes Hindu religion for the purposes of this Act;
- (xxv) the grant of pensions or gratuities to officers and servants of the Board who retired before the 30th September, 1951; ⁴[* * *]
- (xxvi) the grant of gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the 30th September, 1951; ⁵[and]
- ⁶[(xxvii) (a) the manner in which the hundials and other receptacles in a religious institution for putting as offerings, cash or other valuables, shall be installed, maintained, opened and sealed; and

1. The words "to the members of the Area Committee" were omitted by Section 33(ii) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

2. Clause (xxi) was substituted by Tamil Nadu Act 39 of 1996.

3. This Clause was substituted for the following clause by Section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970 (Tamil Nadu Act 2 of 1971).

"(xxiii) the qualifications to be possessed by the officers and servants for appointment to non-hereditary offices in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants";

4. The word "and" was omitted by Section 2(1) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1973 (Tamil Nadu Act 22 of 1973).

5. This word was added by Section 2(2), *ibid*.

6. This Clause was added by Section 2(3) of Tamil Nadu Act 22 of 1973.

(b) ensuring proper safeguards of such hundials and receptacles.

- (3) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of '[the Legislative Assembly] and shall be subject to such modifications by way of amendment or repeal as '[the Legislative Assembly] may make either in the same session or in the next session.

Notes

Section 116 of the Act deals with power to make rules.

Sale Proceeds

In *His Holiness sri-la-sri Amalavana Pandara Sannadhi Avergal v. Commissioner, H.R. & C.E.* (1980) 1 M.L.J. 375, it was held that sale proceeds of property by Devasthanam, utilized for Tirupani of the temple, would not be liable for contribution.

Furnishing of Security

In *Raja Gopalan v. Nagarajan* (1967) 1 M.L.J. 259, it was held that a reading of Rules 2, 4(2) and 5 of the rules relating to furnishing of security by officer of religious institutions framed under Section 116 (2) (xvi) makes it clear that the person first appointed to a post for which security has to be furnished shall not assume office unless he has furnished security or is exempted from furnishing security by the Government.

CHAPTER-XII TRANSITIONAL

117. Construction of reference to the Board, President or Commissioner.—

Any reference to the Board or its President or a Commissioner thereof contained in any enactment in force in the ²[State of Tamil Nadu] or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the State, shall, on and from the 30th September, 1951, be construed as a reference to the Commissioner appointed or deemed to have been appointed under this Act:

³[Provided that it shall be competent for the Commissioner to delegate, by order, any of the powers devolved upon him under this Section, to ³[the Joint Commissioner or the Deputy Commissioner], or Assistant Commissioner specified in such order subject to such conditions and restrictions as the Commissioner may specify in this behalf; and the Commissioner may withdraw any of the powers delegated to ⁴[the Joint Commissioner or Deputy Commissioner] or the Assistant Commissioner under this Section.]

1. Substituted by the Adaptation of Law and Order, 1987.

2. This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

3. This *proviso* was added by Section 2 of the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1973 (Tamil Nadu Act 5 of 1974).

4. Substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

118. Repeals and savings.—

(1) The ¹[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 (¹[Tamil Nadu] Act XIX of 1951) (hereinafter in this Section referred to as the said Act) is hereby repealed.

(2) Notwithstanding the repeal of the said Act by Sub-section (1)—

- (a) all rules made, or deemed to have been made, notifications or certificates issued or deemed to have been issued, orders passed or deemed to have been passed, decisions made or deemed to have been made, proceedings or action taken or deemed to have been taken, schemes settled or deemed to have been settled and things done or deemed to have been done by the Government, the Commissioner, a Deputy Commissioner, an Area Committee or an Assistant Commissioner under the said Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made, issued, passed, taken, settled or done by the appropriate authority under the corresponding provisions of this Act, and shall have effect accordingly;
- (b) (i) if any provision contained in any scheme settled or deemed to have been settled under the ¹[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1926 ¹[Tamil Nadu] Act II of 1927, including a scheme settled under Section 92 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and in force immediately before the 30th September 1951 is repugnant to any provision contained in this Act or the rules made thereunder, the latter provisions shall prevail, and the former provision shall, to the extent of the repugnancy, be void;
- (ii) all powers conferred and all duties imposed by such scheme on any Court or Judge or any other person or body of persons not being a trustee or trustees or an honorary officer or servant of the religious institution or endowment, shall be exercised and discharged by the Commissioner, the ²[Joint Commissioner or Deputy Commissioner] ³[* * *] or the Assistant Commissioner, as the case may be, in accordance with the provisions of this Act;
- (c) all orders made under Section 67 of the ¹[Tamil Nadu] Hindu Religious Endowments Act, 1926 (¹[Tamil Nadu] Act II of 1927)

1. Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. Substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

3. The words "the Area Committee" were omitted by Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

shall, notwithstanding that they are inconsistent with this Act, continue in force, but any such order may at any time be modified or cancelled by the '[Joint Commissioner or the Deputy Commissioner, as the case may be], if it is an order made under Sub-section (1) or Sub-section (3) of that Section and by the Commissioner if it is an order made under Sub-section (4) or Sub-section (5) of that Section; and any person aggrieved by any modification or cancellation made by the '[Joint Commissioner, or the Deputy Commissioner, as the case may be], may prefer an appeal to the Commissioner within such time as may be prescribed.

- (3) The mention of particular matters in this Section shall not be held to prejudice or affect the general application of Sections 8 and 18 of the ²[Tamil Nadu] General Clauses Act, 1891 (²[Tamil Nadu] Act I of 1891) with regard to the effect of repeals.

Notes

Section 118 of the Act deals with Repeals and savings.

Any Court

“Any Court” in Section 118 (2) (b) (ii) of the Act is an expression which includes a High Court as well, and any Judge would include a High Court Judge also.

Piecemeal Transfer

In *Parthasarathy v. Varadachariar* (1986) 2 M.L.J. 201, it was held that there cannot be piecemeal transfer of powers exercisable by the Court under Sec.118 retaining certain residuary powers and even Sec.118 says that all the powers vested with the Court shall be transferred to the Deputy Commissioner and when all the powers are transferred the power to declare that R-1 is not entitled to hold office as a trustee cannot be retained by the Court.

Scheme settled and scheme modified

In *R.Desika Thathachariar v. Deputy Commissioner H.R & C.E.* (1970) 2 M.L.J. 475, it was held that there is no distinction between a scheme settled and a scheme modified for the purpose of Section 103 (d) of 1951 Act or of Section 18 (2) (a) of the 1959 Act.

Sec.118 of the Act and Sec. 92 C.P.C.

In *Meyappa Velar v. Tamil Nadu Temple Administration Board*, (1995)1 M.L.J. 435, it was held that in view of the provisions in Sec.118 (2) (1) (b) (i), it is clear that the provisions of Act 22 of 1959 will alone prevail notwithstanding any inconsistencies with the scheme framed by the Court under Section 92 C.P.C.

1. Substituted for the words “Deputy Commissioner” by Tamil Nadu Act 38 of 1995.

2. These words were substituted for the word “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

119. Conditions of service of certain persons.—

- (1) The conditions of service of persons appointed under Sub-section (1) of Section 104 of the '[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 ('[Tamil Nadu] Act XIX of 1951) shall be regulated by rules made by the Government from time-to-time as if they had entered the service of the Government on the date of their first entertainment as a member of the Board or as its subordinate, as the case may be.
- (2) To those not so appointed, the Government may accord such relief by way of pension, gratuity, provident fund or leave with allowances as they may, in their discretion, deem fit.
- (3) No Court shall entertain any suit or application for damages or compensation by any member of the Board or any of its subordinates affected by Sub-section (1) of Section 104 of the '[Tamil Nadu] Hindu Religious and Charitable Endowments Act, 1951 ('[Tamil Nadu] Act XIX of 1951), or for the variation of the relief, if any, granted under Sub-section (2) of this Section.

²[119-A. Board of Trustees' control over Karanma services.—

The Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47 shall, subject to the provisions of this Act and to such conditions as may be prescribed, have control over the holders of all Karanma services and also over all the properties and other emoluments attached thereto].

120. Commissioner to repay certain sums to the Government.—

Any sum paid by the Government before the publication of this Act in the Fort St. George Gazette* for the expenses of Consultative Committees or Sub-committees thereof shall be repaid to the Government by the Commissioner from out of the ³[Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund] under Sub-section (2) of Section 96 of this Act, as if Sub-section (4) of Section 92 of this Act were in force at all relevant times.

Notes

Section 120 of the Act deals with Commissioner to repay certain sums to the Govt.

1. These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. This Section was inserted by Section 11 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

3. Substituted for the words "Madras Hindu Religious and Charitable Endowments, Administration Fund" by paragraph 3(1) of, and the Schedule to, the Tamil Nadu Adaptation of Laws Order, 1970.

* Now the Tamil Nadu Government Gazette.

Shall be repaid to the Government by the Commissioner

Any sum paid by Government before publication of the Act in Government Gazette for the expenses of consultative committees or sub-committees therefor shall be repaid to Government by the Commissioner from out of the Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund under Sec. 96 (2) as if Sec. 92 (4) of the Act were in force at all relevant times.

¹[120-A. Power to amend, alter or add to Schedule 1.—

The Government may, from time-to-time by notification, amend, alter or add to Schedule 1].

Notes

Section 120-A of the Act was introduced by the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act 1974, Act 50 of 1974 and this provision deals with power to amend, alter or add to Schedule 1. Schedule 1 specifies list of incorporated Devaswoms.

²[121. * * *].

³[122. * * *].

1. This Section was inserted by Section 12 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

2. Section 121 was omitted by Section 13 of *ibid*.

3. Section 122 was omitted by Section 35 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968 (Tamil Nadu Act 19 of 1968).

ADDENDA (LATEST CASE LAWS)

The temple filed an application for setting aside the *ex-parte* order and condonation of delay in an appeal filed by the tenant against the decree for eviction and these applications were allowed. In a revision petition filed by the tenant, the High Court held that the delay has been explained by comparing the idol with a minor, the Court has an inherent duty to protect its interests, especially when the persons appointed for protecting interests act against the same. *Selvaraj v. Sree Komaleeswarar Devasthanam*, (2004)1 M.L.J.27.

An alienation of the properties of the temple without the sanction of the Commissioner is *null and void*, and such power conferred on him is plenary and shall be exercised with due regard to the necessity for the sale, benefit to the institution, and the price that the sale would fetch. *Jagathambigal Nagar Co-operative House site Society v. State of Tamil Nadu*, (2004)2 M.L.J.386.

Whether a right to receive the garlands worn by the deity in the temple was to the Ubayadar or to the two Thathachariars is of a civil nature. On a settlement between the Ubayadars and the Thathachariars, it was agreed that the Ubayadar should supply three garlands to be worn by the deity on a particular day of a festival and then the Ubayadar and the Thathachariars should be given the garlands simultaneously. *K.K.A. Ananthan v. State of Tamil Nadu* (2004)2 M.L.J. 462.

Under the Rules framed by G.O.Ms.4524 Revenue dated 5-11-1960, the power of suspension of an employee of the temple lies only with the trustees. The Executive Officer of the temple cannot exercise the power. Any such order passed by the Executive Officer is *null and void* and cannot be ratified by the Board of Trustees or the trustees. *Pitchai v. Moongilanai Kamatchiamman Temple by E.O.*, (2004)2 M.L.J.663.

The Plaintiff proved that the plaintiff and his predecessors-in-interest were not only holding the office of hereditary Archakas and hereditary trusteeship and were managing the properties of the temple thus falling within the definition of a hereditary trustee under Section 6(11) of the Act. It is immaterial that the plaintiff did not prove that he was the adopted son of the previous hereditary trustee. The suit temple is a small temple and the affairs of the same are managed by the contribution made by the public and the office of the trusteeship and pujariship can be carried on by one and the same individual. *The Commissioner H.R. & C.E. Department v. Senthamarai Kannan (died) and others*, (2004)2 M.L.J.668.

It is the definite rule of succession and devolution by any one of the three modes of succession envisaged in Section 6(11) of the Act that could alone enable a claim of hereditary trusteeship to be legitimately made. The Authority to nominate or appoint or specify for a specified period even by a body which had authority to do so would not make such office a hereditary one within the meaning of the Act. *Commissioner H.R. & C.E. (Admn.) Madras v. Vedantha Sthapana Sabha* (2004)3 M.L.J.169(S.C.).

A public religious trust can own a temple declared to be a public temple with properties attached to it, and also can own properties for its secular objects. Where the trust has both religious and secular objects, the Act would not apply and the Executive Officer has no role to play when the trust decides to achieve its secular objects. *Arulmighu Mahalakshmi Temple by the E.O., v. Srinivasa Raghavan and others*, (2004)4 M.L.J. 61.

A suit regarding the right to receive religious honours in a temple is not maintainable in a Civil Court and the order of Court holding that such a suit is maintainable in Civil Court is revisable by the High Court in a petition under Article 227 of the Constitution. *Mythamilselvan v. Manickam*, (2004)4 M.L.J. 131.

Under a trust, the founder dedicated properties for the performance of charity and special endowments in certain temples under the control of the Department and provided that the properties should not be alienated. The son of the founder, also a trustee, applied to the Court for permission to sell the properties as those were not yielding any income. Such a petition will not lie at the instance of the son-trustee. The Commissioner of H.R. & C.E. Department alone is empowered to deal with the properties under the Act. *L.Narayanan and another v. Nil*, (2004)4 M.L.J.141.

The delinquency attached to the hereditary trustee comes to an end on his death. When the successive Executive Officers had not devoted proper attention to the day-to-day administration of the Endowment and several defects have been pointed out in the audit reports, in the interests of the administration of the specific endowment when the legal heirs of the original trustees are ready and willing to take over the administration, there would be no justification for the continued functioning of the Executive Officer. *M.P.Anandam Pillai (deceased) and another v. The State, represented by its Secretary to Government, Tamil Development and Culture, H.R. & C.E., Madras and others*, (2004)4 M.L.J.377.

Charges were framed against the hereditary trustee of a Chathram on the alleged grounds of misconduct and irregularities by the Department. But no notification extending the Act to the Chathram under Section 3 had been made. The Court directed that the Deputy Commissioner may inquire into the charges, then notify the Chathram under the Act and proceed with the enquiry. *K.S.Ganapathiya Pillai, Managing Trustee Arupathu Moovar Annathana Chathram Tirunelveli Town v. The Deputy Commissioner, H.R.& C.E., Department*, (2004)4 M.L.J.675.

Under Section 109 of the Act as it stood then, it was not open to a person to claim adverse possession against the property belonging to the religious institution unless he proved that the property belonging to the religious institution was in his possession adverse to the claim of the said religious institution and the property also vested in him prior to 30-9-1951. Where the property of the religious institution was leased in 1946 by the then Matadhipathi holding the office till 1966, his successor was holding the office till 1986 when the successor filed the suit for recovery of possession in 1990, the suit would be within limitation, under Article 96 of the

Limitation Act. Unless the permanent lease granted by the agents of the previous Matadhipathi was entered into for legal necessity or for the benefit of the mutt, the lease would not bind the successor Matadhipathi, and the burden of establishing the circumstances justifying the alienation would be upon the alienee. The fact that the previous office-holders did not question the alienation is no ground for holding that the successor cannot question the alienation. *Sri Ragavendra Swamy Mutt v. Panchapakesa Iyer*, (2004)4 M.L.J.727.

The claim made by the plaintiffs in the suit for a half share of the income as archagas, was not substantiated. This right according to the pleadings, mainly depends upon the basis of hereditary rights. And unless a declaration is sought for on this basis, the suit is not maintainable. *Ganesa Gurukkal v. Sri Dharbaranyeswaraswamy Devasthanam, Tirunallar*, (2005)1 M.L.J.370.

The age of retirement of assistants and clerks of Arulmighu Sivaganga Samasthanam Devasthanam appointed in 1953 is sixty years and not sixty five years. Effect of Service Rules of Repeal of 1951 Act discussed. *Arulmighu Sivaganga Samasthanam Devasthanam v. Commissioner H.R.&C.E.Board.*, (2005)1 M.L.J.437.

In view of the definition of a Religious Institution in Section 6(18) of the Act and the definition of Math under Section 6(13) of the Act, the Math is a religious institution with properties attached thereto and is presided over by a person, the succession to whose office devolves in accordance with the direction of the founder of the Math. The Math is entitled to Constitutional protection as envisaged under Article 26 of the Constitution and is entitled to file a writ petition under Article 226 of the Constitution. There is no provision under the Act 22 of 1959 requiring compulsory registration of a Math under the Act. Under Section 102 of the Criminal Procedure Code, defining the power of the police officer to seize certain property, (including bank accounts), there must be a nexus to the crime alleged and the money to be seized. In the exercise of power under Section 102 of the Code, the distinction between the property of the Math and the property of the head of the math must be noted. The police, under Section 102 of the Code, are entitled to collect all evidence relating to past activities in relation to the alleged crime but cannot interfere with the administration of the Mutt and the accounts relating to future activities. *H.H.Sri Kanchi Kamakoti Peetadhipathi Jagadguru Sri Sankaracharya Swamigal Srimatam Samasthanam v. State of Tamil Nadu*, (2005)1 M.L.J. 490.

The Temple enhanced the fee payable by pilgrims on an important festival lasting for seven days and which was intended for providing flowers and accommodation for a large number of devotees after following the procedure prescribed under the Act. The levy was upheld. *V.Thiagarajan v. Secretary to Government, H.R. & C.E. Department, Chennai*, (2005)2 M.L.J. 612.

[SCHEDULE—I]

[See Section 6(12)]

LIST OF INCORPORATED DEVASWOMS

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Bhoothapandy	Thovala	1. Bhoothapandy 2. Azhagianambi 3. Thiruvengkithapper 4. Thiruppathisaram 5. Thazhakudy 6. Thovala 7. Aruvamozhy 8. Darsanamcope 9. Chiramatom 10. Bhuthapandyperumal 11. Harihara Vinayagar 12. Attinkarakrishnaswamy 13. Madavilagam 14. Jadayupuram 15. Bhavagavathy Kottaram 16. Kadukkara 17. Emperuman 18. Mulayanalloor	Major Major Major Major Major Major Major Major Minor Minor Minor Minor Minor Minor Minor Minor Minor Minor

1. The original Schedule to Principal Act was numbered as Schedule III thereof and Schedule I and II were inserted by Section 19 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Boothapandy (Contd.)	Thovala (Contd.)	19. Sakalakala Mathanda Pillayar	Minor
		20. Arumanalloor	Minor
		21. Anthirapuram	Minor
		22. Umayeeswara Mudayanainar	Minor
		23. Kotheswaramudayanainar	Minor
		24. Azhagamannar	Minor
		25. Thenpara Vinayagar	Minor
		26. Thiruvayar	Minor
		27. Esanthimangalam Perumal	Minor
		28. Navalkkad Eluppavudaya	
		Kantan Sastha	Minor
		29. Udayamarthandeswarar	Minor
		30. Earavivinayagar	Minor
		31. Karumenikandan Sastha	Petty
		32. Kozhunthadai Kantan Sastha	Petty
		33. Meelakulathu Kantan Sastha	Petty
		34. Aryankavu Kantan Sastha	Petty
		35. Arasudaya Kantan Sastha	Petty
		36. Edamala Vallayyan	Petty
		37. Nilappara Kantan Sastha	Petty
		38. Kalungumugathu Bhuthathan	Petty
		39. Valia Yajaman	Petty
		40. Anandhavalli Amman	Petty
		41. Kottakara Kantan Sastha	Petty
		42. Chemposy	Petty
		43. Keruchipara Kantan Sastha	Petty
		44. Chandana Nanga Amman	Petty
		45. Nagaramman	Petty
		46. Alathura Valayyan	Petty
		47. Kaliyugathumeyyan	Petty
		48. Ananthapuram Bhuthathan	Petty
		49. Arassadikantan	Petty
		50. Annamalakantan	Petty
		51. Aiyinimoottu Bhoothatthan	Petty

Group.	Taluk.	Number and Name of Devaswom.		Major, Minor, or Petty.
(1)	(2)	(3)		(4)
Boothapandy (Contd.)	Thovala (Contd.)	52.	Attoor Kantan Sastha	Petty
		53.	Vidankar Vinayagar	Petty
		54.	Kulathumkara Kantan Sastha	Petty
		55.	Azhagadri Kantan Sastha	Petty
		56.	Annakkara Marthandeeswara	
			Mudaya Nainar	Petty
		57.	Arassadi Kantan Sastha	Petty
		58.	Veerakerala Pillayar	Petty
		59.	Orana Kantan Sastha	Petty
		60.	Karumeni Kantan Sastha	Petty
		61.	Easanamatom Pillayar	Petty
		62.	Pulimugathu Kantan Sastha	Petty
		63.	Erukalam Kavudaya Kantan Sastha	Petty
		64.	Veeranarayanamangalam	
			Neerkamudaya Kantan Sastha	Petty
		65.	Irumudichozha Vinayagar	Petty
		66.	Sooramuppidary Amman	Petty
		67.	Suchindram	Major
		68.	Kanyakumari	Major
Nagercoil	Agatheeswaram	69.	Agastheeswaram	Major
		70.	Marungoor	Major
		71.	Banamthitta	Major
		72.	Parakka	Major
		73.	Ezhagaram	Major
		74.	Vadiveeswaram	Major
		75.	Nagercoil	Major
		76.	Thaliyal	Major
		77.	Krishnan coil	Major
		78.	Perambalam	Major
		79.	Thekketheruvu Kulasekara Perumal	Major
		80.	Asramam Krishnaswamy	Major
		81.	Mannoothi Nangamman	Major

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Nagercoil (Contd.)	Agatheeswaram (Contd.)	82. Sarkaratheertha Viswanathar	Minor
		83. Panchalanagapuram Krishnaswamy	Minor
		84. Vadaketheruvu Mahadevar	Minor
		85. Akkara Mahadevar	Minor
		86. Kariamannickazhwar	Minor
		87. Valampuri Vinayagar	Minor
		88. Arumugha Pillayar	Minor
		89. Kottavila Sastha	Minor
		90. Edartheertha Perumal	Minor
		91. Melavathil Vinayagar	Minor
		92. Thiruvengkita Vinna Perumal	Minor
		93. Brahmarakshasa Perumal	Minor
		94. Apathukatha Kantan Sastha	Minor
		95. Periapandeeswaramudaya Nainar	Minor
		96. Kasi Viswanathar	Minor
		97. Alathamam	Minor
		98. Eraviputhur Eravi Vinayagar	Minor
		99. Vishnupuram Krishnaswamy	Minor
		100. Vannathamkulam Poosastha	Minor
		101. Kothichapillayagaram Perumal	Minor
		102. Kothichapillayagaram Sivam	Minor
		103. Thekkuman Shakthi Vinayagar	Petty
		104. Veeramarthanda Vinayagar	Petty
		105. Arasadi Vinayagar	Petty
		106. Kulasekara Vinayagar	Petty
		107. Karumkalai Amman	Petty
		108. Puthugramam Perumal	Minor
		109. Karuppukottta Kailasanathar	Minor
		110. Puravassery Perumal	Minor
		111. Puravassery Sivan	Minor
		112. Arassadi Krishnaswamy	Minor
		113. Poosastha Kanthan Sastha	Minor
		114. Vasudevar Coil	Minor
		115. Kommandayamman	Minor
		116. Cholapuram	Minor

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Nagercoil (Contd.)	Agatheeswaram (Contd.)	117. Enakodi Kantan Sastha	Petty
		118. Peruvila	Minor
		119. Vembanoor	Minor
		120. Kattimanoodde	Minor
		121. Srimad Dwaraka	Minor
		122. Brahmasandhi Kanni	
		Vinayagar	Petty
		123. Sannathitheru Viswanathar	Petty
		124. Badhrakali Thyagasoundari	Petty
		125. Keezhatheru Viswanathar	Petty
		126. Guhanadheeswarar	Petty
		127. Ooormuppidari	Petty
		128. Bhagavathyamatom	
		Bhagavathy Vinayagar	Petty
		129. Mandaramputhoor	
		Damodhara Vinayagar	Petty
		130. Maruthuvamala	Petty
		131. Alathu Badrakali	Petty
		132. Vazhiottakaran	Petty
		133. Elayanainar	Petty
		134. Koranadikorrakkanathar	Petty
		135. Marukathala Kantan Sastha	Petty
		136. Valikoil Amman	Petty
		137. Koorudayakantan Sastha	Petty
		138. Chempakanachi Amman	Petty
		139. Pachaperumal Sastha	Petty
		140. Theradi Esakki Amman	Petty
		141. Ootukuzhi Kannimar	Petty
		142. Bhutham Vanamgum	
		Kantan Sastha	Petty
		143. Sthanu Vinayagar	Petty
		144. Velikanta Mahadevar	Petty
		145. Esakki Amman	Petty
		146. Annamalakantan Sastha	Petty
		147. Eravikulam	Petty
		148. Tharamanikantan Sastha	Petty
		149. Rajakkamangalam	
		Alanthamman	Petty

[illegible]

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Padmanabhapuram (Contd.)	Kalkulam (Contd.)	186. Anakkara Sastha	Minor
		187. Madavilagam	Minor
		188. Sivagiri	Minor
		189. Kailasathu Mahadevar	Minor
		190. Vellapillayar	Minor
		191. Chunakara Sastha	Minor
		192. Kaverikad Sastha	Minor
		193. Adavalleela Nainar	Minor
		194. Mainindra Vinayagar	Minor
		195. Mavavila	Minor
		196. Karakanteswaram	Minor
		197. Cheramangalam	Minor
		198. Thalakkulam	Minor
		199. Thrippaniyode	Minor
		200. Karingal	Minor
		201. Thikkanamcode	Minor
		202. Pannipagom	Minor
		203. Kattala	Minor
		204. Ethavila	Minor
		205. Poomala	Minor
		206. Kaithappuram Sastha	Minor
		207. Edatheri Sastha	Minor
		208. Thathancode Sastha	Petty
		209. Manamcode Sastha	Petty
		210. Kottaramattom Pillayar	Petty
		211. Shunmuga Vilasam Pillayar	Petty
		212. Theradi Bhuthathan	Petty
		213. Madan Thampuram	Petty
		214. Sannidhi Pillayar	Petty
		215. Uchi Pillayar	Petty
		216. Azhagia Pillayar	Petty
		217. Vilavoor Elangam	Petty
		218. Maravoor Konam Sastha	Petty
		219. Kakkotta Thala	Petty
		220. Puliyara Kantan	Petty
		221. Alathamman	Petty
		222. Chingankavu	Petty

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Padmanabha- puram (Contd.)	Kalkulam (Contd.)	223. Karayakulam	Petty
		224. Kootumangalam	Petty
		225. Nandimangalam	Petty
		226. Atchaleeswaram	Petty
		227. Undicha Mahadevar	Petty
		228. Koodathoojikki Sastha	Petty
		229. Edampidicha Mahadevar	Petty
		230. Anakara Sastha	Petty
		231. Saralkala Sastha	Petty
		232. Chunakkara Sastha	Petty
		233. Maramvilakki Sastha	Petty
		234. Pulimughathu Sastha	Petty
		235. Andoor Sastha	Petty
		236. Pullayil Sastha	Petty
		237. Kandanesseri Bhagavathy	Petty
		238. Nangoor Krishnaswamy	Petty
		239. Mekkode Kottavila Sastha	Petty
		240. Panniyottu Thampuram	Petty
		241. Panniyottu Udayar	Petty
		242. Gnarakuzhy Sastha	Petty
		243. Kollenvilla Sastha	Petty
		244. Chirakonam Sastha	Petty
		245. Kulasekhara Pillayar	Petty
		246. Bootha Pillayar	Petty
		247. Chemala	Petty
		248. Thumbattu Sastha	Petty
		249. Kundala Sastha	Petty
		250. Chempidari Amman	Petty
		251. Puliyoor Kunichi Sivan	Petty
		252. Velimala	Petty
		253. Padmanabha Thoppu	Petty
		254. Pammathu Moola	Petty
		255. Munpala Sastha	Petty
		256. Ponnayiramudayar	Petty
		257. Kingini Sastha	Petty
		258. Pallikkara Sastha	Petty
		259. Ethankadu	Petty

Group.	Taluk.	Number and Name of Devaswom.		Major, Minor, or Petty.
(1)	(2)	(3)		(4)
Padmanabha- puram (Contd.)	Kalkulam (Contd.)	260.	Ardhakantan Sastha	Petty
		261.	Apathukathar	Petty
		262.	Karipalli	Petty
		263.	Nethrakkoil	Petty
		264.	Erumavila	Petty
		265.	Alampara	Petty
		266.	Kallettivilla	Petty
		267.	Kotheswaram	Petty
		268.	Kantan Sastha	Petty
		269.	Bhoothamuttam	Petty
		270.	Manalikkara Elangom	Petty
		271.	Parayadi Sastha	Petty
		272.	Kulangara Sastha	Petty
		273.	Ariyappan	Petty
		274.	Panchakanyaka	Petty
		274A	Kunnakad	Petty
		275.	Thiruvattar	Major
		276.	Thirupparappu	Major
		277.	Kuzhithura	Major
		278.	Thirumala	Major
		279.	Parthivapuram	Major
		280.	Nattalam Vishnu	Major
		281.	Nattalam Sivan	Major
Kuzhithurai	Vilavancode	282.	Thrivikramapuram	Major
		283.	Thaliyal	Minor
	Kalkulam	284.	Thirumurambo	Minor
		285.	Payanam	Minor
	Vilavancode	286.	Thirpramala	Minor
		287.	Kulasekharam	Minor
	Kalkulam	288.	Cheamundy Amman	Minor
		289.	Keleswaram	Minor
	Vilavancode	290.	Kannacode	Minor
		291.	Kwlapuram	Minor
	Kalkulam	292.	Palugal	Minor
		293.	Cheruvallor	Minor
		294.	Aruvikara Krishnaswamy	Minor
		295.	Puthiakavu	Minor

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Kuzhithurai (Contd.)	Vilavancode (Contd.)	296. Piracode	Minor
	Kalkulam	297. Aramandam	Minor
	Vilavancode	298. Methu Kummal	Minor
		299. Mannasekaram	Minor
		300. Thrippilamcode	Minor
		301. Kirathoor	Minor
		302. Kamukinthottam	Minor
		303. Chitharal	Minor
		304. Karippara	Minor
		305. Palliyara	Minor
		306. Edakode	Minor
		307. Aducode	Minor
		308. Puliyoorsala	Minor
		309. Kamukannoor	Minor
		310. Nelveli	Minor
		311. Mangode	Minor
	Kalkulam	312. Bakthaprian	Petty
	Vilavancode	313. Chemmaruthankavu	Petty
	Kalkulam	314. Muttathura Mahadever	Petty
		315. Muthalar Kantan Sastha	Petty
		316. Madayarathala Bhagavathy	Petty
		317. Thenkara Kantan Sastha	Petty
		318. Anayadi Sastha	Petty
		319. Kottavila	Petty
		320. Nattarthottam	Petty
		321. Ramanalloor	Petty
		322. Chettuthura	Petty
		323. Vazhvil Pillayar	Petty
		324. Athiserry	Petty
		325. Jagadheeswaram	Petty
		326. Kunnel	Petty
	Vilavancode	327. Attoor	Petty
		328. Cherukole	Petty
		329. Nankoikal	Petty
		330. Kavinmoola	Petty
		331. Punnakuzhi	Petty

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Kuzhithurai (Contd.)	Vilavancode (Contd.)	332. Mulammoodu	Petty
		333. Manakampara	Petty
		334. Pulippara Sastha	Petty
		335. Krishnaswamy	Petty
		336. Erathukoikal	Petty
		337. Kuranganvila	Petty
		338. Somasingalam	Petty
		339. Cherumaruthankavu	Petty
		340. Chemmuthal	Petty
		341. Mulagumoodu	Petty
		342. Sivappada	Petty
		343. Kariyodu	Petty
		344. Pottakad	Petty
		345. Aluvila	Petty
		346. Kunnuvila	Petty
		347. Kinathuvila	Petty
		348. Kanjiramthara	Petty
		349. Prateeswaram	Petty
		350. Kumpalamkavu	Petty
		351. Vegampady	Petty
		352. Kuruthivila	Petty
		353. Puliyamthara	Petty
		354. Sambradu	Petty
		355. Kuthirode	Petty
		356. Kuruchivila	Petty
		357. Vanniyoora Mala	Petty
		358. Kirathoor	Petty
		359. Thittachal	Petty
		360. Michakom	Petty
		361. Kuracode	Petty
		362. Achalipuram	Petty
		363. Uchimala	Petty
		364. Mudyanvila	Petty
		365. Kona Coil	Petty
		366. Cheruvalloor Krishnan	Petty
		367. Cheruvalloor Sastha	Petty
		Devaswaram	Petty
		367A Devaswaram	Petty

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Shencottah	Shencottah	368. Kasbakulasekharanathaswamy	Major
		369. Azhagiamanavalaperumal	Major
		370. Puliya	Major
		371. Elathoor Madhunathaswamy	Major
		372. Ayikudy Subramaniaswamy	Major
		373. Kilankad Jamadhneeswara Swamy	Major
		374. Sambavarvadakara Sree Moolanthaswamy	Major
		375. Arya Vinayagar	Minor
		376. Krishnaswamy	Minor
		377. Surkui Ambalam	Minor
		378. Natarajaperumal	Minor
		379. Kuttala Vinayagar	Minor
		380. Kalakanteswaram	Minor
		381. Thiruvenkita Venniperumal	Minor
		382. Krishnaswamy	Minor
		383. Arasalwar	Minor
		384. Pavizhakothayyanar	Minor
		385. Vedhanarayana Perumal	Minor
		386. Sundarajara Perumal	Minor
		387. Kulasekhara Vinayagar	Petty
		388. Nithyakalyani Ammankoil	Petty
		389. Chekkadi Vinayagar	Petty
		390. Muppidari Amman	Petty
		391. Nalledampilla Ayyanar	Petty
		392. Mahattu Bhuthathan	Petty
		393. Kulasekharanangamman	Petty
		394. Theradimadan	Petty
		395. Soolathuvamdayar	Petty
		396. Kuttala Vinayagar	Petty
		397. Nalloor Nangai Amman	Petty
		398. Pandanadheswara	Petty
		399. Karkudi Veerakerala Vinyagar	Petty
		400. Chelladam Pilla Ayyanar	Petty
		401. Pattu Bhuthathan	Petty
		402. Neeli Amman	Petty

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Shencottah (Contd.)	Shencottah (Contd.)	403. Nirakulathayyanar	Petty
		404. Thazhakkal Ayyanar	Petty
		405. Veerakerala Vinayagar	Petty
		406. Adhisooru Vinayagar	Petty
		407. Thadimadayar Sastha	Petty
		408. Thottachi Ayyanar	Petty
		409. Maduyadayar Mani Kantan	
		Sastha	Petty
		410. Muppidari Amman	Petty
		411. Anchumuthayyanar	Petty
		412. Kuravan pattayyanar	Petty
		413. Adhikantayyanar	Petty
		414. Ulkottayyanar	Petty
		415. Manamuthayyanar	Petty
		416. Aryankavu Surukambalam	Petty
		417. Marthanda Vinayagar	Petty
		418. Adheenmazzhaki Ayyanar	Petty
		419. Parathimma Vinayagar	Petty
		420. Nainathathu Muditha	
		Vinayagar	Petty
		421. Petchi Amman	Petty
		422. Sudalamadan	Petty
		423. Gopuramudayar	Petty
		424. Vazhivettakaran	Petty
		425. Adaikalamkatha Ayyanar	Petty
		426. Sankara Vinayagar	Petty
		427. Payikovil	Petty
		428. Palavoodayar	Petty
		429. Chundakkattu Vinayagar	Petty
		430. Lekshmi Narayana Perumal	Petty
		431. Azhagianachi Amman	Petty
		432. Panayadian Sastha	Petty
		433. Chempaka Vinayagar	Petty
		434. Pinamalasoodum Perumal	Petty
		435. Padukula Sastha	Petty
		436. Muppidari Amman	Petty
		437. Karukanni Amman	Petty

Group.	Taluk.	Number and Name of Devaswom.	Major, Minor, or Petty.
(1)	(2)	(3)	(4)
Shencottah (Contd.)	Shencottah (Contd.)	438. Mada Oodayar	Petty
		439. Oolakamman	Petty
		440. Marthanda Vinayagar	Petty
		441. Chockalingaswamy	Petty
		442. Gangaikkuvazhthamman	Petty
		443. Arassadi Vinayagar	Petty
		444. Theradi Vinayagar	Petty
		445. Muppidari Amman	Petty
		446. Nallamankar Vinayagar	Petty
		447. Pallavoodayar Sastha	Petty
		448. Silayeduthar Sastha	Petty
		449. Therveethi Vinayagar	Petty
		450. Sreeneelkani Amman	Petty
		451. Sila Pillayar	Petty
		452. Dhurgai Amman	Petty
		453. Bhadrakali Amman	Petty
		454. Madaswami	Petty
		455. Manhamutti Ayyanar	Petty

SCHEDULE—II**[See Section 6(23)]****PART—I****LIST OF UNINCORPORATED DEVASWOMS.**

	Serial Number and Name of Group (1)	Name of Devaswom (2)
1.	Bhoothapandy Group	1. Ethiravally Chozha Vinayagar, Thazhakudy. 2. Thazhayil Kanthan Sastha. 3. Kakkum Vinayagar. 4. Kannimoolavighneswarar. 5. Bheemanagari Ethiravally Chozhavinayagar. 6. Thrikkaliyanam Fund in the Thazhakudy Devaswom.
2.	Nagercoil Group	7. Marukathala Kantan Sastha Devaswom. 8. Thanuvalingaswamy Devaswom. 9. Kaikonda Vinayagar Devaswom.
3.	Padmanabhapuram Group	10. Kappiyara Mahadevar Devaswom.
4.	Kuzhithurai Group	11. Maravoor Kantan Sastha. 12. Kotheswaram Devaswom. 13. Ashthami Sadya Endowment Fund in Major Thirumala devaswom.
5.	Shencottah Group	14. Ayukudy Subramanyaswamy Devaswom. 15. Elathoor Sundararaja Perumal. 16. Puliya Arya Vinayagar. 17. Adheenam Kathawar. 18. Azhakanachi Amman.

PART II

Serial Number and Name of Group (1)		Name of Devaswom (2)	
1.	Bhoothapandy Group	1.	Ninar Edakkavudayar Kantan Sastha, Ananthapuram
2.	Nagercoil Group	2.	Puthugramam, Ramanamatam, Boothathan, Pudhugramam, Therror
3.	Padmanabhapuram Group	3.	Vembannor, Eswarakalathampuram, Vembanoor, Neendakara
		4.	Sree Bhoothanathaswamy, Rajakkamangalam
		5.	Thiruvidadakkode, Aloor
		6.	Edamala Sastha, Aloor
		7.	Kannanthitta Sastha, Aloor
		8.	Cherithala Sastha, Aloor
		9.	Elangeri Kanthan Sastha, Aloor
		10.	Earattapadi Sree Padmanabhaswamy and Kalpaka Pillayar, Aloor
4.	Kuzhithurai Group	11.	Notchikulam Sastha - Colachel
		12.	Poottetty Sankaranainar Kulathu Mahadevar, Killiyoor.

PART III

Serial Number and Name of group (1)		Name of Devaswom. (2)	
1.	Padmanabhapuram Group	1.	Muttakkad Bhoothathan, Kothanalloor
		2.	Attinkara Padmanayyar, Kadiapattinam

**[SCHEDULE—III]
COURT-FEES PAYABLE UNDER THE ACT.
(See Section 104)**

Section.	Description of document	Proper fee. Rs.
(1)	(2)	(3)
I. SUITS		
41 (2) (d) (ii) proviso	Suit for determining whether the inam comprises both the melvaram and kudivaram or only melvaram	50
53(6)	Suit against order under Section 53(5)	50
59	Suit for removal of trustee of math or specific endowment attached to math	50
70	Suit against order of Commissioner	50
72(4)	Suit for the cancellation of the notification	50
² [75-C(1)]	Suit for the cancellation of the notification	50]
84	Suit against award	50

II. APPLICATION TO COURT OR TRIBUNAL		
Section.	Description of document.	Proper fee. Rs.
(1)	(2)	(3)
47(4)	Application to Court against order of ³ [Government, Commissioner or joint/Deputy Commissioner].	⁴ [10]
82(1)	Application to the Tribunal	5
90(4) (a)	Application to Court against order of surcharge	20
101	Application for delivery of possession	2

III. APPEALS TO COURT		
⁵ [50(5-A)]	Appeal to High Court	50]
70(2)	Appeal to High Court	50
72(5)	Appeal to High Court	50
⁶ [75-C(2)]	Appeal to High Court	50]

1. The original schedule to the Principal Act was numbered as Schedule III thereof by Section 19 of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

2. This entry was inserted by Section 5(i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1965 (Tamil Nadu Act 16 of 1965).

3. These words were substituted by Tamil Nadu Act 39 of 1996 for the words "Temple Administration Board or Temple Administration District Committee."

4. These figures were substituted by Tamil Nadu Act 31 of 1965 for the figure '5'.

5. This entry was inserted by Tamil Nadu Act 25 of 1995.

6. This entry was inserted by Tamil Nadu Act 31 of 1965.

Section.	Description of document	Proper fee. Rs.
(1)	(2)	(3)
IV. APPLICATIONS TO GOVERNMENT,¹[***] COMMISSIONER²[JOINT COMMISSIONER OR DEPUTY COMMISSIONER].		
3(4)	Application to Government for extending the provisions of the Act	25
21	Application to the Commissioner for revision.	³ [10]
⁴ [21-A]	Application to the Joint/Deputy Commissioner for revision.	10]
38(1)	Application by Trustee for recovery from person in possession of property of specific Endowment.	2
38(2)	Application by person in such possession for recovery from person responsible in law for performance of service-charity.	2
59(1)	Application to ⁵ [Commissioner] for consent to suit for removal of Trustee of Math or Specific Endowment attached to Math.	³ [10]
63	Application for decision of dispute or matter under the Section.	³ [15]
64(1)	Application for settlement of scheme by ² [Joint Commissioner or Deputy Commissioner.]	50
64(5)(a)	Application to modify or cancel scheme settled under Section 64(1) or deemed to have been so settled.	25
65(1)	Application for settlement of scheme by the Commissioner.	50
65(4)(a)	Application to modify or cancel scheme settled under Section 65 (1) or deemed to have been so settled.	⁶ [25]
66(1)	Application for order under the Section.	⁶ [25]
66(2)	Application to modify or cancel order passed under Section 65 (1) or deemed to have been so settled.	⁶ [25]
69(3)	Application to Commissioner to modify or cancel order passed under Section 69 (1) or deemed to have been so passed.	⁶ [25]
⁷ [76 (6)]	Application to Government to cancel notification	⁶ [25]

1. The words "Temple Administration Board" were inserted by Tamil Nadu Act 46 of 1991 and subsequently omitted by Tamil Nadu Act 39 of 1996.

2. Substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

3. Substituted for the figure '5' by Tamil Nadu Act 31 of 1965.

4. This entry was inserted by Tamil Nadu Act 39 of 1996. The original entry 21-A which was inserted by Tamil Nadu Act 42 of 1978 was subsequently omitted by Tamil Nadu Act 46 of 1991.

5. This word was substituted by Tamil Nadu Act 39 of 1996 for the words "Temple Administration Board" which in turn were substituted for the word "Commissioner" by Tamil Nadu Act 46 of 1991.

6. These figures were substituted for the figure "5" by Section 2 of the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1965 (Tamil Nadu Act 31 of 1965).

7. This entry was substituted for the entry "72(6). Application to Government to cancel notification of religious institution under Chapter VI...5" by Section 5(iii) of the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1965 (Tamil Nadu Act 31 of 1965).

Section.	Description of document	Proper fee. Rs.
(1)	(2)	(3)
75-C(3)	Application to Government to cancel notification.	¹ [25]
² 114-A	Application to Government for review	¹ [25]
118(2)(c)	Application for modification of cancellation of order under Sec. 67 of the Madras Hindu Religious Endowments Act, 1926.	¹ [25]

V. APPEAL TO GOVERNMENT [*** ** **] COMMISSIONER,³ [JOINT COMMISSIONER OR DEPUTY COMMISSIONER.]		
22(5)	Appeal to Government against order of Commissioner.	¹ [20]
24(6)	Appeal to Government against decision of ⁵ [Commissioner.]	¹ [5]
26(5)	⁵ [Appeal to Commissioner against the order of Joint Commissioner or Deputy Commissioner.	25]
34(4)	Appeal to Government against order of ⁵ [Commissioner] regarding alienation of property.	¹ [15]
37	Appeal to Government against order of ⁵ [Commissioner] under Section 36.	5
38(3)	Appeal to Government against order of Commissioner under Section 38 (1) or (2).	5
38(3)	Appeal to Commissioner against order of ⁶ [Joint Commissioner or Deputy Commissioner] under Section 38 (1) or (2).	5
53(5)	Appeal by Trustee against order of punishment.	¹ [25]
54(4)	Appeal to Commissioner against order of Commissioner or Deputy Commissioner] appointing temporary successor to hereditary trustee.	¹ [25]
55(4)	Appeal to ³ [Joint Commissioner or Deputy Commissioner] against order of Trustee under Section ⁷ [55(1)].	5
56(2)	Appeal to ³ [Joint Commissioner or to Deputy Commissioner] by office-holder or servant against order of punishment passed by a Trustee	5

1. These figures were substituted for the figure "5" by Tamil Nadu Act 31 of 1965.

2. This entry was inserted by Tamil Nadu Act 42 of 1978 and subsequently omitted by Tamil Nadu Act 46 of 1991 and again reinserted by Tamil Nadu Act 39 of 1996.

3. The words "Temple Administration Board, Temple District Committee" as inserted by Tamil Nadu Act 46 of 1991 and 19 of 1993 were subsequently omitted by Tamil Nadu Act 39 of 1996.

4. This word as substituted by Tamil Nadu Act of 1996 for the words "Temple Administration Board" which in turn were substituted for the word "Commissioner" by Tamil Nadu Act 46 of 1991.

5. Substituted by Tamil Nadu Act 39 of 1996.

6. These words were substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

7. These figures and brackets were substituted for the figures and brackets "55(3) by Section 5 (i) of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act," 1970 (Tamil Nadu Act 2 of 1971)

Section.	Description of document	Proper fee. Rs.
(1)	(2)	(3)
[***]		***]
² [58(4)]	Appeal to Joint/Deputy Commissioner against Assistant Commissioner regarding dhittam.	20
58(4)	Appeal to Commissioner against the appellate order of Joint Commissioner/Deputy Commissioner.	20
59(2)	Appeal to Government against the ³ [Commissioners' refusal] to give consent	⁴ [20]
69(1)	Appeal to Commissioner against order of ⁵ [Joint Commissioner or Deputy Commissioner] under Chapter V.	⁴ [25]
79(1)	Appeal to Commissioner against order of ⁵ [Joint Commissioner or Deputy Commissioner].	5
81(1)	Appeal to Commissioner against order of ⁵ [Joint Commissioner or Deputy Commissioner].	5
86(4)	⁶ [Appeal against order regarding budget,—	
	(i) to Joint/Deputy Commissioner;	10
	(ii) to Commissioner;	10
	(iii) to Government.	10]
90(4)(b)	Appeal to Government against order of surcharge	⁴ [20]
111(2)(c)	Appeal to Commissioner against any modification or cancellation made by ⁵ [Joint Commissioner or Deputy Commissioner].	⁴ [25]

1. The following entry was omitted by Section 5 (ii) of the Tamil Nadu Hindu Religious and Charitable Endowment (Amendment Act 1970) (Tamil Nadu Act (2 of 1971) 56 (3)) Appeal to Commissioner by hereditary office-holder or servant against applicable order to Deputy Commissioner.

2. Substituted by Tamil Nadu Act 39 of 1996.

3. Substituted for the words "Temple Administration Boards refusal by Tamil Nadu Act 39 of 1965."

4. These figures were substituted for the figure "5" by Section 2 of the Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment Act 1965 (Tamil Nadu Act 31 of 1965)).

5. Substituted for the words "Deputy Commissioner" by Tamil Nadu Act 38 of 1995.

6. Substituted by Tamil Nadu Act 39 of 1996.

SCHEDULE IV
APPLICATIONS TO GOVERNMENT

¹[TEMPLE ADMINISTRATION BOARD, COMMISSIONER] OR
²[JOINT COMMISSIONER, OR DEPUTY COMMISSIONER]

3(4)	Application to Government for extending the provisions of the Act	25	
21	Application to Commissioner for revision	5	10
21A	Application to Joint/Deputy Commissioner for revision	3[10]	
	Inserted by Act 42 of 1978 as deemed to have come into force on the 14th August, 1978. Omitted by Act 46(9) w.e.f.13.12.1991. (Application to Deputy Commissioner for Revision)		
38(1)	Application by Trustee for recovery from person in possession of property of specific endowment	2	
38(2)	Application by person in such possession for recovery from person responsible in law for performance of service or charity	2	
59(1)	Application to ³ [Commissioner] for consent to suit for removal of trustee of Math or specific endowment attached to a Math	5	10
63	Application for decision of dispute or matter under the section	5	15
64(1)	Application for settlement of scheme ⁴ [Joint Commissioner/ Deputy Commissioner]	50	
64(5)(a)	Application to modify or cancel scheme settled under Sec.64(1) or deemed to have been so settled	25	
65(1)	Application for settlement of scheme by the Commissioner	50	
65(4)(a)	Application to modify or cancel scheme settled under Sec.65(1) or deemed to have been so settled	25	
66(1)	Applications for order under the section	5	25
66(2)	Application to modify or cancel order passed under Sec.66(1) or deemed to have been so passed		
69(3)	Application to Commissioner to modify or cancel order passed under Sec.69(1) or deemed to have been so passed	5	25
72(6)	Application to Government to cancel notification of religious institution under Chapter VI/	5	25
	Application to Government to cancel notification		5
[75(1)	Suit for cancellation of notification	5	25 50

1. Substituted for Commissioner by Act 46 of 1991, w.e.f. 13.12.1991.

2. Substituted for the words "Deputy Commissioner" by Act 38 of 1995. w.e.f. 3.6.1996.

3. The words "Temple Administration Board" substituted for the words "The Commissioner" by Act 46 of 1991. Again the words "The Commissioner" substituted by Act 39 of 1996 w.e.f. 9.12.1996.

4. Substituted for the words "Deputy Commissioner" by Act 38 of 1995. w.e.f. 3.6.1991.

75C(3)	Application to Government to cancel notification	5	5
76(b)	Application to Government to cancel notification substituted previously 72(b) by Act 19 of 1965		5
75C(3)	Application to Government to cancel notification		5
114	Application to Government for revision	5	25
114A	Application to Government for review. inserted by Act 42 of 1978 and deemed to have come into force on the 14th August, 1978. Omitted by Act 46 of 1991 w.e.f. 13.12.91 (Application to Government for review Omitted by Act 46 of 1991.	5	25
118(2)	Application for modification or cancellation of order under section 67 of the Madras Religious Endowments Act, 1926	25	5
(C)		5	25

SCHEDULE V

APPEALS TO GOVERNMENT [COMMISSIONER] OR [JOINT COMMISSIONER, DEPUTY COMMISSIONER]

22(5)	Appeal to Government against decision of Commissioner	5	20	by Act 46 of 1991
24(5)				
24(6)	Appeal to Government against decision of Commissioner (Inserted by Act 40 of 1961. w.e.f. 1.1.1961)	5		
26(5)	Appeal to Commissioner against order of Joint/Deputy Commissioner		25	
	[(i) ³ District Committee to Temple Administration Board	5	25	
	(ii) Deputy Commissioner, Joint Commissioner to Commissioner		25	
	² (the words substituted for "District Committee" by Act 19 of 93 w.e.f. 18.5.93)]			
34(4)	Appeal to Government against order of ² [Commissioner] regarding alienation of property	5	15	
37.	Appeal to Government against order of ² [The Commissioner] under Sec.36			

1. Substituted for the provision "72(6) Application to Government to cancel Notification of religious institution under chapter VI.... 5" by Act 16 of 1965 w.e.f. 16.7.1965.

2. The words "Temple Administration Board" Substituted for the words "Commissioner" by Act 46 of 1991. w.e.f. 13.12.91. Again the words "The Commissioner" substituted by Act 39 of 1996 w.e.f. 9.12.1996.

3. Substituted for the words "District Committee" by Act 19 of 1993 w.e.f. 18.5.1993.

4. Substituted for the words "Deputy Commissioner" by Act 38 of 1995 w.e.f. 3.6.1996.

38(3)	Appeal to Government against order of Commissioner under Sec.38(1) or (2)		
38(3)	Appeal to Commissioner against order of ¹ [Joint Commissioner, Deputy Commissioner] under Sec.38(1) or (2)	5	
53(5)	Appeal by trustee against order of punishment	5	25
54(4)	Appeal to Commissioner against order of ¹ [Joint Commissioner/Deputy Commissioner] appointing temporary successor to hereditary trustee	5	25
55(4)	Appeal to ¹ [Joint Commissioner/Deputy Commissioner] against order of Trustee under Sec. ² [55(1)]	5	
56(2)	Appeal to ¹ [Joint Commissioner/Deputy Commissioner] by office-holder or servant against order of punishment passed by trustee	5	
56(3)	Appeal to ¹ [Commissioner] by hereditary office-holder or servant against appellate order of Deputy Commissioner	5	
58(4)	Appeal to Deputy Commissioner against order of Assistant Commissioner, regarding <i>dhittam</i>	5	20
	Appeal to Commissioner against appellate order for Joint/Deputy Commissioner after amendment Act 46 of 1991	5	20
58(4)	Appeal to Temple Administration Board against order of ³ [Temple Administration District Committee]		20
After Act 39 of 1996			
58(4)	Appeal to Joint/Deputy Commissioner against the order of Assistant Commissioner regarding <i>dhittam</i>		20
58(4)	Appeal to Commissioner against the Appellate order of Joint Commissioner/Deputy Commissioner		20
59(2)	Appeal to Government against ⁴ [The Commissioner's] refusal to give consent	5	20
69(1)	Appeal to Commissioner against order of ¹ [Joint Commissioner/Deputy Commissioner] under Chapter V	5	25
⁵ 72(6)	Application to Government to cancel notification	5	

1. Substituted for the words "Deputy Commissioner" by Act 38 of 1995 w.e.f. 3.6.1996.

2. For the figure and brackets "55(3) in the entries in columns against the figures and brackets "55(4)" in columns (1), the figures and brackets "55(1) substituted by Act 2 of 1974 w.e.f. 1.1.1971.

3. Inserted by Act 16 of 1965.

4. The figures and brackets "56(3) in column (1) and the entries relating thereto in columns (2) and (3) omitted by Act 2 of 1971 w.e.f. 1.1.1971.

5. Substituted for the words "Commissioner's refusal" by Act 46 of 1991.

75C(3)	Application to Government to cancel notification	5]	
79(1)	Appeal to Commissioner against order of [Joint Commissioner/Deputy Commissioner]	5	
81(1)	Appeal to Commissioner against order of ¹ [Joint Commissioner/Deputy Commissioner]	5	
After Act 39 of 1996 and Principal Act			
86(4)	Appeal against order regarding budget		
	(i) to ¹ [Joint Commissioner/Deputy Commissioner]	5	10
	(ii) to Commissioner	5	10
	(iii) to Government	5	10
86(4)	After Act 46 of 1991 Appeal against order regarding budget		
	(i) To Temple Administration Board		10
	(ii) To the Commissioner		10
	(iii) To Government		10
90(4)(b)	Appeal to Government against order of Surcharge	5	20
118(2)(c)	Appeal to Commissioner against any modification or cancellation made by [Joint Commissioner/Deputy Commissioner]	5	25

1. Substituted for the words "Deputy Commissioner" by Act 38 of 1995 w.e.f. 3.6.96.

PUBLICATION OF NOTICE AND NOTIFICATIONS OF JAIN RELIGIOUS INSTITUTIONS AND OTHER ENDOWMENTS RULES, 1960.

*[Published in the Fort St. George Gazette, Supplement, Part I, page 76,
dated 17th February, 1960]*

[G.O. No. 661, Revenue, dated 5th February, 1960]

RULES

1. ¹[These rules may be called the PUBLICATION OF NOTICE AND NOTIFICATIONS OF JAIN RELIGIOUS INSTITUTIONS AND OTHER ENDOWMENTS RULES, 1960.]

2. The Notice referred to in the *proviso* to Sec.2 and in the *proviso* to Sec.3 shall, in addition to publication in the Fort St. George Gazette, be also ²[XXX] sent by registered post, acknowledgement due, to the trustee of the religious institutions or endowments referred to in Sec.2, or the charitable endowment referred to in Sec.3. Refusal by the trustee to receive the notice shall be deemed to be sufficient service.

3. (i) Copies of the notice under Sec.2 shall be published by affixture:

(a) On the notice-board and if there is no notice-board on the front door of or in any other conspicuous place in the ³[institution] concerned; and

⁴[(b) On the notice-board of the office of the Municipal Council including the Municipal Corporation of Madras, or of the office of the panchayat or panchayat union council, as the case may be, or village chavadi and if there is no village chavadi, in some other public place in the village in which the math or temple is situated.]

(ii) Copies of the notice under Sec.3 shall be published by affixing on the notice board or boards of the ³[institution or institutions] as the case may be, to which the charitable endowment is attached and if there are no notice-boards, on the front door of or any other conspicuous place in the institution or institutions, as the case may be, to which the endowment is attached.

4. The publication of the notice under Rule 3 shall be deemed to be sufficient intimation to persons having interest.

5. A copy of the notification under Sec.2 or Sec.3 shall be served and published in the manner laid down in Rules 2 and 3 relating to the service and publication of the notice under the said section.

-
1. New Rule 1 substituted by SRO No.A.4343 of 1960 dated 9th June 1960, published supplement to part I, page 267 of the Fort St. George Gazette dated June, 1960.
 2. In Rule 2, the expressions "published in the language of the locality concerned in a daily newspaper having circulations in the said locality of and also be" omitted by *Ibid*.
 3. The words "Institutions" substituted for the words "math or temple" by *Ibid*.
 4. New Sub-rule (b) substituted by G.O.P No.2574, Revenue dated 24th August, 1963.

ADVISORY COMMITTEE RULES.

*[Published in the Fort St. George Gazette, Supplement, Part I, pages 76 and 77,
dated 17th February, 1960]*

[G.O. 663, Revenue dated 5th February, 1960]

S.R.O. No. A-1034 of 1960. — In exercise of the powers conferred by Sub-sec.(4) of Sec.7, read with Sub-sec.(1) and clause (xxi) (a) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules: -

RULES

1. These rules may be called THE "ADVISORY COMMITTEE RULES."
2. The Advisory Committee may make recommendations in respect of the following matters: -
 - (1) Arrangements to be made by religious institutions for the propagation of the religious tenets and the steps to be taken to enlist the co-operation of the public in this regard;
 - (2) Establishment and maintenance of schools or refresher courses for the training of Archakas, Adyapakas, Vedaparayanaikars and Othuvars and the study of Divyaprabandams, Thevarams and the like including the study of Indian languages;
 - (3) Establishment and maintenance of University or college or other institution with special provisions for the study of Hindu religion, Philosophy or Sastras or for imparting instructions in the temple architecture;
 - (4) Amenities to be provided for securing the health, safety or convenience of the pilgrims visiting the institutions during festivals;
 - (5) Renovation of temples in need or repairs by enlisting the co-operation of the public;
 - (6) General suggestions in accordance with terms of trust and usage in regard to the better administration of religious institutions; and
 - (7) To advise on matters relating to the preservation of architectural beauty of temples.
 - (8) Ways and means of increasing the revenue of religious institutions.
3. The members of the committee shall be paid travelling allowance and daily allowance at the rates allowed to members of First-class Government committees.
 - ¹[4. (a) The Commissioner shall be the counter-signing and drawing officer for T.A. Bills of the members of the committee.
 - (b) The Commissioner shall encash the T.A. bills of the members at the PAO, Madras, and send the amount to each member by M.O. or by bank draft at the cost of the Government and the expenditure on such cost shall be met from the permanent advance of the Commissioner.
 - (c) In the case of the members of the committee who are also members of the Legislature, a non-drawal certificate shall be obtained from the Legislative Assembly Department or the Legislative Council Department before counter-signing by the Commissioner.]

1. Rule 4 added by G.O. Ms. No.1541, Commercial Taxes and Religious Enforcement dated 22nd December, 1975.

**THE TAMIL NADU HINDU RELIGIOUS AND
CHARITABLE ENDOWMENT ADVISORY RULES, 1976**

*[Published in Tamil Nadu Government Gazette, Part III, Section 1(a), dated 1st September, 1976]
[G.O. Ms. No.1163, Commercial Taxes and
Religious Endowments, dated 21st August, 1976]*

S.R.O.No. A-329 of 1976 – In exercise of the powers conferred by Sub-sec.(2) and (3) of Sec.7 read with Sub-sec.(1) and Sub-Clause(a) of Clause(xxi) of Sub-sec.(2) of Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu XXII of 1959) and in super-session of the Advisory Committee Rules, published with the Revenue Department Notification S.R.O.No. A-1034 of 1960, dated the 5th February, 1960, at page 774, the Rules Supplement to part I of the Fort St. George Gazette, dated the 17th February, 1960, as subsequently amended, the Governor of Tamil Nadu hereby makes the following rules:

RULES

1. These rules may be called the TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ADVISORY COMMITTEE RULES, 1976.

2. The Advisory Committee shall consist of persons chosen from among eminent MEN from various walks of life such as religious, education, administration, Law, temple-art and architecture archaeology and scholars in vedas, agamas and other religious rites and practices and persons interested in the proper administration of the religious institutions.

3. The term of office of the non-official members shall be three years, a person, who is, or was, a non-official member, shall be eligible for re-nomination. The Government may at its discretion reconstitute the Advisory committee at any time for its proper functioning.

4. The Personal Assistant to the Commissioner or such other Gazetted Officer of the Hindu Religious and Charitable Endowments (Administration) Department, as may be nominated by the Commissioner in this behalf from time-to-time, shall be the Secretary to the Advisory Committee.

5. The Advisory Committee shall meet at least once in six months and more often if need be, decided by the Chairman.

6. The meetings of the Committee shall ordinarily be held at Madras. However, the Chairman may, if he considers it necessary at any time, hold the meeting at any place outside Madras.

7. The quorum for the meeting shall be five.

8. Every meeting of the Advisory Committee shall be presided over by the Chairman and in his absence, the members present may choose one from among themselves to preside over the meeting.

9. The questions which may come up before any meeting shall be decided by a majority of votes and when the votes are equally divided, the Chairman or the member presiding for the occasion as the case may be, shall have and exercise a second and casting vote.

10. The minutes of the proceedings of the meeting shall be recorded in a book to be kept for the purpose and shall be signed by the Chairman or in his absence by the presiding member as the case may be. Any minute of dissent shall be recorded, if required, by the dissenting member. The minutes book shall be kept in the office of the Commissioner in the custody of the Secretary to Committee.

11. The subjects on the agenda before the meeting shall be taken up and disposed of in the order in which they appear in the agenda for the meeting, unless the Chairman decides to

give-precedence to any subject or subjects on the agenda. No subject, which is not in the agenda, shall be taken up at a meeting except with the concurrence of the Chairman. Within ten days from the date of the meeting, a copy of the minutes of the proceedings of the meeting shall be forwarded to the Government and the members of the Advisory Committee by the Secretary of the Advisory Committee.

12. The Secretary shall be responsible for the issue of notice of meeting, the preparation of Agenda, the arrangements for the meeting, the custody of minutes book and communication of the proceedings of the meeting and such other matters relating to the Advisory Committee as may be specified by the Chairman from time-to-time. The Secretary shall always be present at the meeting and shall produce such records as may be necessary, for the discussion of the subjects in the Agenda.

13. The Advisory Committee may advise or make recommendations in respect of the following matters, namely: -

(a) arrangements to be made by religious institutions for the propagation of the religious tenets and the steps to be taken to enlist the co-operation of the public in this regard;

(b) establishment and maintenance of institutions for the training of Archakas, Adyapakas, Vedaparayanaikars and Othuvans and the study of Hindu Philosophy, the tenets of Hindu Religion and the study of Divyaprabandams, Thevarams, Agamas and the like, including the study of Indian languages;

(c) establishment and maintenance of institutions for the study of Hindu Religion, philosophy or Sastras or for imparting instructions on the temple architecture;

(d) amenities to be provided for securing the health, safety and convenience of pilgrims visiting the institutions during festivals;

(e) renovation of temples in need of repairs by enlisting the co-operation of the public;

(f) general suggestions in accordance with the terms of Trust, usage and custom in regard to the better administration of religious institutions;

(g) preservation of archaeological and architectural beauty of temples, inscriptions therein and the metallic as well as non-metallic idols and also objects of interest;

(h) ways and means of increasing the revenue of religious institutions.

(i) arrangements for the safety and the safeguard of the jewels and valuables of religious institutions;

(j) the revival of defunct religious institutions and the recovery of their properties;

(k) procedure for the opening and closing of Hundials and the counting of Hundial Collections from time-to-time; and

(1) procedure for the printing, distribution and accounting of ticket books required for religious institutions for regulating Admission, Archanas, Sevas, Kavadis and the like:-

14. (1) The members of the Advisory Committee shall be paid Travelling Allowance and daily allowance at the rates allowed to members of First-Class Government Committees.

(2) The Secretary of the Advisory Committee shall be the countersigning and drawing officer for Travelling Allowance bills of the non-official members of the Advisory Committee.

(3) The Secretary shall encash the Travelling Allowance bills of the members at the Pay and Accounts Office, Madras, and send the amount to each member by bank-draft at the cost

of the Government and the expenditure on such cost shall be met from the permanent advance of the Commissioner, Hindu Religious and Charitable Endowments (Administration) Department.

15. The expenditure for the meeting of the Advisory Committee and the Travelling Allowance of the members shall be met from the Hindu Religious and Charitable Endowments (Administration) Department Fund.

16. (1) A member may, at any time, by notice in writing to the Government, resign his Office.

(2) A casual vacancy created by the resignation of the member under Sub-rule (1) or otherwise shall be filled up by fresh appointment by Government. The term of office of such member shall be for the remainder of the term of the member, in whose place he is appointed.

TAMIL NADU TEMPLE ADMINISTRATION BOARD RULES, 1991.

*[G.O. Ms. No. 505, Commercial Taxes and Religious Endowments,
dated 13th December, 1991.]*

No. SRO A-199 (a)/91

Notification -1. In exercise of the powers conferred by Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act, 22 of 1959) read with Sub-sec. (2) of Sec.7, Secs.7A, 7G and 7H of the said Act, the Governor of Tamil Nadu hereby makes the following Rules:-

RULES

1. Short title. - These rules may be called "THE TAMIL NADU TEMPLE ADMINISTRATION BOARD RULES, 1991."

2. Definitions. - In these rules, unless the context otherwise requires, -

(a) "Act" means the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act, 22 of 1959);

(b) "Board" means the Tamil Nadu Hindu Temple Administration Board established under Sub-sec.(1) of Sec.7 of the Act;

(c) "Chairman" means the Chairman of the Board;

(d) "Government" means the State Government;

(e) "Secretary" means the Secretary to the Board referred to in Sub-sec.(2) of Sec.7-A of the Act.

(f) Words and expressions used and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in that Act.

3. Nomination of officials and non-officials to the Board- (1) The non-officials nominated by the Government under clause (e) of Sub-sec.(1) of Sec.7-A of the Act shall be nine and shall be chosen from among eminent men in the field of education administration, law, temple art and architecture, archaeology and scholars in Vedas, Agamas and other religious rites, and practice, who shall also be persons interested in the administration of the religious institutions.

(2) The officials to be nominated by the Government as members of the Board under clause (e) of Sub-sec.7-A of the Act shall be ¹[five]:

1. The word "five" substituted for the word "six" by G.O..Ms.162, Commercial Taxes and Religious Department, dated 4th July, 1993.

Provided that one of the members to be nominated under Sub-rule(1) or Sub-rule(2) shall be a member of the Scheduled Castes or Scheduled Tribes:

Provided further that the officials and non-officials to be nominated shall be persons professing the Hindu Religion.

4. Approval of Government for acquisition and transfer of property-The power of the Board to acquire and hold property and to transfer any such property shall be subject to the approval of the Government.

5. Term of office- The term of office of the non-official member shall be three years from date of nomination by the Government.

6. Meetings of the board- (1) The Board shall meet at-least once in three months and more often if need be as may be decided by the Chairman or by the member presiding over the meeting.

(2) The meetings of the Board shall ordinarily be held at Madras and in such other places as may be decided by the Chairman or by presiding officer of the meeting.

(3) The Secretary shall be the convener of the meeting, who shall convene the meeting of the Board on such date as may be fixed.

(4) The agenda for the meeting shall be prepared by the Secretary.

(5) The subjects on the agenda brought before the meeting of the Board for passing resolutions shall be in the form of short-notes with cause-title of the subject matter quoting the relevant sections on each subject matter requiring consideration and decision by the Board.

(6) Notice of the meeting specifying the date, time and place of the meeting with the agenda containing short-notes with relevant sections of the Act to which each subject matter relates shall be served to the members of the Board at-least seven days before the date of the meeting. Such service shall be effected by tendering the notice to every member personally or sent to the member by registered post with acknowledgement due to the usual place of residence of the member.

(7) (a) In case of emergency, the Secretary may convene the meeting as per the directions of the chairman giving a shorter notice than that is specified in Sub-rule(6).

(b) If any decision is to be taken urgently on any subject matter the proposal may be circulated among the members and decision may be taken by the majority of the members of the Board. Every decision taken in circulation shall be placed in the next meeting of the Board.

(8) The quorum for the meeting shall be seven.

(9) The Secretary shall always be present at the meetings and make available files relating to the subject matter in the agenda that may come up for consideration before the Board.

(10) The subjects of the agenda before the meeting shall be taken up and disposed of in the order in which they appear in the agenda for the meeting unless otherwise decided by the Chairman. No subject which is not in the agenda shall be taken up in a meeting except with the concurrence of the Chairman.

7. Decision of the Board – The decision of the Board on the subject matter in the agenda shall be in the form of a resolution.

8. Maintenance of Minutes Book –The resolution at each meeting on every subject matter shall be recorded in a minutes Book to be kept for that purpose which shall be either in Tamil or in English as may be decided by the members and shall be signed by the Chairman or any member presiding the meeting. The Minutes Book shall be in the custody of the Secretary.

9. Implementation of Resolutions – (1) The Secretary shall implement the resolutions passed by the Board within a month from the date of the meeting or within such time as may be specified by the Chairman. The resolutions pending implementation shall be reported to the Board in the next meeting with reasons therefore :

Provided that in order to give effect to resolutions expeditiously, the Secretariat delegate the duties imposed on him under these rules:

(a) to the Deputy Commissioner in respect of resolutions pertaining to religious institutions whose annual assessable income is not less than one lakh of rupees but not exceeding ten lakhs of rupees.

(b) to the Assistant Commissioner in respect of resolutions pertaining to religious institutions not included in the list published under Sec.40 and religious institutions which are not religious institutions notified or deemed to have been notified under Chapter VI of the Act.

(2) The resolutions of the Board shall be communicated in the form of proceedings containing details of the subject matter and material particulars which formed the basis for arriving decisions by the Board and shall be signed by the Secretary if he communicates the proceedings and in other cases by the Deputy Commissioners or the Assistant Commissioner as the case may be, acting as the delegate of the Secretary under Sub-rule(1), and the office seal of the authority concerned shall be affixed to such proceedings.

10. Resolutions to be sent to Government – Copies of the resolutions passed at every meeting of the Board shall be sent to the Government, by the Secretary, within a month from the date of the passing of the resolutions.

11. Travelling and halting allowances – The members of the Board shall be paid Travelling Allowance and Halting Allowance at the rates admissible to the members of First-Class Government Committees.

12. Countersigning of bills – The Secretary shall be the counter-signing officer for the Travelling and Halting Allowance bills of the members of the Board. The expenditure shall be met from out of the Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund.

DISTRICT COMMITTEE RULES, 1991.

[Published in Tamil Nadu Government Gazette, Extraordinary

Part III, Sec-1(a), dated 13th December, 1991]

[G.O. Ms. No. 505, Commercial Taxes and Religious Endowments

dated 13th December, 1991]

No. SRO A.199(b)/91. In exercise of the powers conferred by Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (Tamil Nadu Act, 22 of 1959), read with Secs.7D, 7G and 7H of the said Act, the Governor of Tamil Nadu hereby makes the following Rules:-

RULES

1. Short title – These rules may be called “THE DISTRICT COMMITTEE RULES, 1991.”

2. Definitions – In these rules unless the context otherwise requires:

(a) Act means the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act, 22 of 1959).

(b) Board means the Tamil Nadu Temple Administration Board established under Sub-sec.(1) of Sec.7 of the Act.

(c) Chairman means the chairman of the District committee.

(d) Government means "The State Government".

(e) 'Secretary' means the secretary to the District committee appointed under Sub-sec.(2) of Sec.7-D of the Act.

(f) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in that Act.

3. Composition of District Committee – (1) The District committee constituted under Sec.7-G of the Act, shall consist of four officials and seven non-official. The non-official members shall be chosen by the Board from the district or districts for which the District Committee is constituted from among the persons who are interested in the administration of religious institutions. The official and non-officials shall be persons professing Hindu Religion.

(2) The chairman shall be nominated by the Board.

4. Term of office – Term of office of the non-official members shall be three years from the date of nomination.

5. Meetings of the district Committee – (1) The District Committee shall meet at least once in a month and more often if need be as may be decided by the Chairman.

(2) The meetings of the District Committee shall be held at the office of the Secretary.

(3) The Secretary shall be the convener of the meeting who shall fix the date of the meeting in consultation with Chairman.

(4) (a) The Secretary shall collect the subject matter requiring the decision of the District Committee relating to the religious institutions from the Deputy Commissioner or the Assistant Commissioner as the case may be.

(b) The subject matter thus collected shall form the agenda for the meeting of the District Committee.

(5) The subjects in the agenda brought before the meeting of District Committee for passing resolutions shall be in the form of short-notes with cause-title of the subject requiring consideration and decision by the District Committee.

(6) Notice of the meeting specifying the date, time and place of the meeting with the agenda containing short-notes with relevant sections of the Act under which each subject matter relates, shall be served on the members of the District Committee at least four days before the date of the meeting. Such service shall be effected by tendering the notice to every member personally or sent to the member by registered post with acknowledgement due, to the usual place of residence of the member.

(7) (a) In case of emergency, the Secretary may convene the meeting in consultation with the Chairman giving a shorter notice than that specified in Sub-rule(6).

(b) If any decision is to be taken urgently on any subject matter, the proposal may be circulated among the members and the decision may be taken by the majority of the members of the District Committee. Every decision taken in circulation shall be placed in the next meeting of the District Committee.

(8) The quorum for the meeting shall be five.

(9) The Secretary shall always be present at the meetings and make available files relating to the subject matter in the agenda that may come up for consideration before the District Committee.

6. Decision of the District Committee. - (1) The decision of the District Committee on the subject matter in the agenda shall be in the form of a resolution.

(2) The resolution at each meeting on every subject matter shall be recorded in a Minute Book to be kept for the purpose, which shall be either in Tamil or in English as may be decided by the members and shall be signed by the Chairman or any member presiding over such meeting. The Minutes Book shall be in the custody of the Secretary.

(3) The subjects in the agenda before the meeting shall be taken up and disposed of in the order in which they appear in the agenda for the meeting unless otherwise decided by the Chairman. No subject which is not on the agenda shall be taken up at a meeting except with the concurrence of the Chairman.

(4) Within seven days of the passing of the resolution, the Secretary shall communicate the resolution to the respective Deputy Commissioner or Assistant Commissioner for implementation.

(5) The resolution of the District Committee shall be communicated in the form of proceedings containing details of the subject matter, material particulars which formed the basis for arriving at the decision by the District Committee, and shall be signed by the Secretary.

(6) A copy of the resolution passed by the District Committee shall be sent within a month from the date of the meeting, to the Secretary of the Board, by the Secretary.

(7) The Secretary shall implement the resolutions passed by the District Committee within a month from the date of the meeting or within such time as may be specified by the Chairman. The resolutions which cannot be implemented within the specified time or extended time shall be reported to the District Committee in the next meeting with reasons therefore.

7. Travelling and Halting Allowance. -(1) The members of the District Committee shall be paid Travelling Allowance and Halting Allowance at the rates admissible to the members of the First-class Government Committees for attending the meeting of the District Committee and for attending to the work connected with the discharge of the functions of the District Committee.

(2) The Secretary shall be the countersigning officer for the Travelling and Halting Allowance bills of the members of the District committee. The expenditure shall be met from the Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund.

NOMINATION OF CERTAIN PERSONS AS OFFICIAL AND NON-OFFICIAL MEMBERS OF TAMIL NADU TEMPLE ADMINISTRATION BOARD.

*[Published in Tamil Nadu Government Gazette, Extraordinary, part II, Section 2,
dated 12th January, 1995]*

*[G. O. Ms. No.10, Commercial Taxes and Religious Endowments,
dated 12th January, 1995]*

No.II (2) CTRE/207 (d) 95. In exercise of the powers conferred by Clause(e), Sub-sec.(1) of Sec.7-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) read with Rule 3 of the Tamil Nadu Temple Administration Endowments Department Notification No.II(2) CTRE/6489(f-3)/91, dated the 13th December, 1991, published at page 2 of part II Sec.2 of the Tamil Nadu Government Gazette Extraordinary,
HR & CE. 13

dated the 13th December, 1991, the Governor of Tamil Nadu hereby nominates the following persons as official and non-official members of the Tamil Nadu Temple Administration Board:-

OFFICIAL MEMBERS.

1. Honourable Minister for Adi-Dravidar Welfare.
2. The Chief Secretary to Government.
3. The Secretary to Government, Revenue Department.
4. The Chief Engineer (Buildings), Madras.
5. The Director of Archaeology, Madras.

NON-OFFICIAL MEMBERS.

1. Kanchi Thondaimandala Adheenam (Saivite).
2. Thirumathi Devaki Muthiah, Madras.
3. Thiru B. Sivanthi Adityan, Madras.
4. Thiru T.Kannan, Madurai
5. Allur Viswanatha Sivachariar, Allur, Tiruchirappalli.
6. Thiru K. Parasaran, Ex-Solicitor- General.
7. Sri Kaliyan Ramanuja Jeer Swamigal, Sri Vanamamalai Mutt, Nanguneri
Tirunelveli-Kattabomman District.
8. Agnihotram Ramanuja Thathachariar.
9. Thirumathi Rani D. Indira Devi, Ramanathapuram.

THE ADVISORY COMMITTEE RULES, 1997.

*[Published in Tamil Nadu Government Gazette, Extraordinary, Part III, Sec 1 (a),
dated, 4th June, 1993.]*

*[G.O.Ms No. 275, Commercial Taxes and Religious Endowments,
dated, 16th July, 1997.]*

No.SRO A-102 (a-1)/97. In exercise of the powers conferred by Sub-sec.(1) of Sec.116 read with Sec.7 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), the Governor of Tamil Nadu hereby makes the following rules: -

RULES

1. These rules may be called "THE ADVISORY COMMITTEE RULES, 1997."
2. Person who is or was a non-official member, shall be eligible for re-nomination. The Government may at their discretion re-constitute the Advisory Committee at any time for its proper functioning.
3. The Commissioner as the Member-Secretary ex-officio shall be the Convener of the Meetings of the Advisory Committee.
4. The Advisory Committee shall meet at least once in six months and more often if need be, as decided by the chairman.
5. The meetings of the Advisory Committee shall ordinarily be held at Chennai. However, the Chairman may, if he considers it necessary at any time, hold the meeting at any place outside Chennai.
6. The quorum for the meeting shall be eight.
7. Every meeting of the Advisory Committee shall be presided over by the Chairman and in his absence by the Vice-chairman. In the absence of the Chairman and Vice-Chairman, the members present may choose one from among themselves to preside over the meeting.

8. The question which may come up before any meeting shall be decided by a majority of votes and when the votes are equally divided, the Chairman or the Vice-Chairman or the member presiding over the meeting, as the case may be, shall have and exercise a second and casting vote.

9. The minutes of the proceedings of the meeting shall be recorded in a book to be kept for the purpose and shall be signed by the Chairman, in his absence by the Vice-Chairman or by the presiding member, as the case may be. Any minute of dissent shall be recorded, if required by the dissenting member. The minutes book shall be kept in the office of the Commissioner in his custody in his capacity as the secretary to the Committee.

10. The subjects on the agenda before the meeting shall be taken up and disposed of in the order in which they appear in the agenda for the meeting, unless the Chairman decides to give preference to any subject or subjects on the agenda. No subject which is not in the agenda shall be taken up at a meeting except with the concurrence of the Chairman. Within ten days from the date of the meeting, a copy of the minutes of the proceedings of the meeting shall be forwarded to the Government and the members of the Advisory Committee by the Member-Secretary of the Advisory Committee.

11. The Member-Secretary shall be responsible for the issue of notice of meeting, the preparation of agenda, the arrangements for the meeting, for the custody of minutes book, and communication of the proceedings of the meeting and chairman, from time-to-time. The Member Secretary shall always be present at the meeting and shall produce such records as may be necessary for the discussion of the subjects in the agenda.

12. The Advisory Committee may make recommendations in respect of the following matters: -

(1) arrangements to be made by religious institutions for the propagation of the religious tenets and the steps to be taken to enlist co-operation of the public in this regard;

(2) establishment and maintenance of schools or refresher courses for the training of Archakas, Adyapakas, Vedaparayanaikars and Othuvars and the study of Divyaprabandams, Thevarams and the like including the study of Indian languages;

(3) establishment and maintenance of University or Colleges or other institutions with special provisions for the study of Hindu Religion, Philosophy or Sastras or for imparting instructions in temple architecture;

(4) amenities to be provided for securing the health, safety or convenience of the pilgrims visiting the institutions during festivals;

(5) renovation of temples in need of repairs by enlisting the co-operation of the public;

(6) general suggestions in accordance with terms of Trust and usage in regard to the better administration of religious institutions;

(7) the preservation of architectural beauty of temples;

(8) way and means of increasing the revenue of religious institutions; and

(9) sale of immovable properties vested with religious institutions.

13. The members of the Committee shall be paid Travelling Allowance and Daily Allowance at the rates allowed to members of First-class Government Committees.

14. (a) The Commissioner shall be the counter-signing and drawing Officer for Travelling Allowance bills of the members of the committee.

(b) The Commissioner shall encash the Travelling Allowance bills of the members at the Pay and Accounts Office Chennai, and send the amount to each member by Money Order or by Bank draft at the cost of the Government and the expenditure on such cost shall be met from the Permanent Advance of the Commissioner.

(c) In the case of the members of the Committee, who are also members of the Legislature or of the Parliament or of a Metropolitan Corporation, a non-drawal certificate shall be obtained from the Legislative Assembly Department or from the Secretariat of Parliament or from the Metropolitan Corporation concerned, as the case may be, before counter-signature by the Commissioner.

THE DISTRICT COMMITTEE RULES, 1997.

[Published in Tamil Nadu Government Gazette, Extraordinary, part III Section I (a) dated 29th September, 1997.]

[G.O.Ms. No.275, Commercial Taxes and Religious Endowments, 16th July, 1997.]

No. SRO A 102 (a - 2) /97. In exercise of the powers conferred by Sub-sec.(1) of Sec.116 read with Sec.7-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), the Governor of Tamil Nadu hereby makes the following rules: -

RULES

1. Short title. - These rules may be called **THE DISTRICT COMMITTEE RULES, 1997.**

2. Chairman of the District Committee. - The Government shall nominate one of the members of the District Committee constituted under Sec.7-A of the Act as Chairman of the Committee within-

(a) thirty days from the date of its constitution; or

(b) fifteen days from the date of which the Office of the Chairman becomes vacant.

3. Place of the meetings. - The District Committee shall hold its meetings in the Office of the Assistant Commissioner, Hindu Religious and Charitable Endowments, Administration Department, of the district concerned, for the transaction of official business:

Provided that no meeting shall be held on a day declared by the State Government to be a public holiday.

4. Convening of the meeting of the District Committee. - The Assistant Commissioner, Hindu Religious and Charitable Endowments, (Administration) Department, of the district concerned, shall be the convener of the meeting of the district committee. He shall convene the meeting of the District Committee in consultation with the chairman of the District Committee and assist in its deliberations. But he shall not however have power to vote.

5. Issue of notice for the convening of the meeting. - (1) The conveners shall be responsible for the issue of notice of meeting, preparation of agenda and arrangements for the meeting.

(2) Meetings for the District Committee shall be convened after issue of notice specifying the date, time, and place of meeting. Such notice shall be issued at least seven clear days before the date of the meeting.

(3) The agenda for the meeting, shall contain, among others, the names of the institutions, names and other particulars of applications and shall be sent to the Chairman and

other members of the Committee along with the notice by registered post to their usual place of residence.

(4) In cases of urgency, the convener may convene a meeting on giving a shorter notice than that specified in Sub-rule (2).

6. Chairman to preside over the meeting. - (1) Every meeting of the District Committee shall be presided over by the Chairman and in his absence, the members present may choose one from among themselves to preside over the meeting.

(2) The Chairman or the presiding member, as the case may be, shall reserve order and shall decide all points of order arising at the meeting and the decision of the Chairman or the presiding member, as the case may be, on any point or order shall be final.

7. The Quorum. - (1) The quorum for the transaction of the business at a meeting shall be three.

(2) If within half-an-hour after the time appointed for the meeting there is no quorum, the meeting shall stand adjourned, unless all the members present agree to wait longer.

8. Functions of the District Committee. -

(1) *Preparation of panel of names of qualified persons, for appointment of trustees.* - The District Committee shall, from the applications received, prepare a panel of qualified persons not exceeding ten in number for each religious institution for being appointed as trustees.

(2) *Custody of minutes books, etc.* - The minutes of the proceedings of the meeting of the District Committee shall be recorded in a book to be kept for the purpose and shall be signed by the Chairman or in his absence by the presiding member as the case may be, and by all other members present at the meeting. Any minute of dissent shall be recorded, if required, by the dissenting member. The minute book and other records of the proceedings of the District Committee, shall be kept in the custody of the Assistant Commissioner in his office.

9. Access of members to relevant papers. - All papers relating to the agenda shall be made available to the members for inspection at the time of or before the commencement of the meeting.

10. Decision by majority of votes. - The issues which come before any meeting shall be decided by a majority of the members present and when the votes are equally divided, the Chairman or the presiding member, as the case may be, shall have and exercise a second and casting vote.

11. Communication of the proceedings of the meetings. - The Assistant Commissioner being the Convener shall forward to the Commissioner and the Joint or Deputy Commissioner concerned, a copy of the minutes of the proceedings, of every meeting of the District Committee within seven days from the date of the meeting. He shall bring to the notice of the Commissioner and the Joint or Deputy Commissioner concerned, irregularity if any, in respect of any item of the proceedings of the District Committee and suggest such action as he may consider necessary.

12. Ceasing to hold office. - The Chairman of the District Committee or any member thereof shall cease to hold office if he absents himself for three consecutive meeting of the District Committee without sufficient cause. Provided that when a person who has ceased to be the Chairman or member by reason of such absence, applies for re-aestivation within one month from the date of the last three meetings, the District Committee may, at the next meeting held after the receipt of such application restore him to his office of Chairman or member, as the case may be, but such restoration shall not be more than once during his term of office.

13. Resignation of members. -The Chairman or any member of the District Committee may resign his office by giving notice in writing to the Government and his resignation shall become effective on its acceptance by the Government,

14. Filling up of the vacancy. -A casual vacancy caused by the resignation of Chairman or a member under Rule 14 or otherwise shall be filled up by fresh appointment by the Government. The term of office of such members shall be for the remainder of the term of the member in whose place he is appointed.

15. Travelling Allowances to the Chairman and members- (1) The Chairman and members of the District Committee shall be paid Travelling Allowance and Daily Allowance at the rates allowed to Members of the First Class Government Committee.

(2) The Assistant Commissioner having jurisdiction over the area shall be the counter-signing and drawing officer for Travelling Allowance bills of the Chairman and members of the District Committee.

(3) In the case of the members of the Committee who are also members of the legislature or the Parliament or from the Metropolitan Corporation concerned a non-drawal certificate shall be obtained from the Legislative Assembly secretariat or from the Secretariat of Parliament or from the Metropolitan corporation concerned before counter-signature by the Assistant Commissioner.

EXECUTIVE OFFICERS' COUNTING OF SERVICE FOR PAYMENT OF PENSION AND GRATUITY RULES, 1960.

[G O. Ms. No. 1612, dated 12th April, 1961.]

1. These rules may be called the "EXECUTIVE OFFICERS' COUNTING OF SERVICE FOR PAYMENT OF PENSION AND GRATUITY RULES, 1960".

2. These rules shall be deemed to have come into force on the 1st January, 1960.

3. For the purpose of these rules: - (1) 'Family' includes the executive officer's wife, legitimate children, step-children, parents, unmarried sisters and minor-brothers wholly dependent on him; and

(2) 'Pay' means pay as defined in Civil Service regulations.

4. Every Executive Officer who was serving immediately before 1st January, 1960 and who retired after the date, after having put in qualifying service for purpose of pension shall be eligible with effect from the date of his retirement from service of the Government for pension under the Civil Regulations for pension and gratuity under the Tamil Nadu Liberalized Pension Rules, 1960, as in the case of other Government servants as if entered the service of the Government on the date of his first appointment as such Executive Officer.

5. Every Executive Officer who was serving immediately before 1st January, 1960, and who retired after the date but has not put in qualifying service for purpose of pension shall be eligible for gratuity under the Tamil Nadu Retiring and Invalid Gratuities Rules, 1941, as if he entered the service of the Government on the date of his first appointment as such Executive Officer:

Provided, he has rendered service for more than 5 years as Executive Officer.

6. The provisions in the Civil Service Regulations for reckoning service for pension shall be followed in determining service qualifying for pension, gratuity, under these rules to the extent necessary.

7. The grant of gratuity shall be governed by the provisions of Civil Service Regulations.

8. The Government may in their discretion, grant a compassionate gratuity to the family of an Executive Officer who died while on duty and whose circumstances, were in their opinion, such that he could not have made any provision for his family.

9. The amount of gratuity to be paid in each case shall be fixed by the Government but shall not normally exceed two thousand and four hundred rupees or twelve month's pay of the Executive Officer, whichever is less.

[Pension Contribution and leave salary recovery – G.O. Ms. No. 388 Rev. dated 9.4.1969].

LEAVE RULES

[G.O. Ms. 357, C.T. and R.E, dated 10th September, 1995]

Note:

In respect of religious institutions in the cadre of Joint Commissioner and Deputy Commissioner and Assistant Commissioner, the following leave concessions are granted by G.O. Ms. No. 357, Commercial Taxes and Religious Endowments, dated 10.11.1995.

- (i) Earned Leave at 1/11 of the duty period and accumulation upto 120 days permitted.
- (ii) 15 days of Earned Leave can be surrendered and encashed once in a year.
- (iii) On the date of retirement, 15 days earned leave can be surrendered and encashed besides surrender of Earned Leave once in a year;
- (iv) Medical Leave of 180 days for the entire period of service.
- (v) Women temple employees are eligible for maternity leave for 60 days;

Group insurance scheme. – Formulated by Rules G.O. Ms. No. 79 C.T.&R.E. dated 20.1.87 rescinded by order of Government in G.O. Ms. No 1127 C.T. and R.E. dated 12.10.87.

Death while in Service. - In the case of death of temple employees, a sum of Rs 75,000 will be given. Commissioners, Rc.No.84173/2000/11 dated 17.8.2001. (With effect from 1.8.2001.)

COMMERCIAL TAXES AND RELIGIOUS ENDOWMENTS DEPARTMENT, THE REGIONAL COMMITTEE RULES, 1978.

*[Published in Part V, Page 519 of the Fort St. George Gazette
dated 23rd November, 1960]*

*[G.O. Ms. No. 1495, Commercial Taxes and Religious Endowments,
dated 2nd December, 1978]*

No.SRO-A/281 (B)/78. - In exercise of the powers conferred by Sub-sec.(2) of Sec.46-A read with Sub-clause(aa) of Clause(xxi) of Sub-sec.(2) of Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959 (Tamil Nadu Act 22 of 1959), The Governor of Tamil Nadu hereby makes the following rules: -

RULES

1. **Short title.** - These rules may be called THE REGIONAL COMMITTEE RULES, 1978.

2. **Election of Chairman.** - (1) The Regional Committee shall elect one of its members to be its Chairman, within –

(1a) Thirty days from the date of its constitution.

(1b) Fifteen days from the date on which the office of the Chairman becomes vacant.

(2) If no Chairman is elected within the period specified in Sub-rule (1), the Government shall nominate the Chairman.

3. Place of the meeting. - The Regional Committee shall hold its meetings in the office of the Assistant Commissioner, Hindu Religious and Charitable Endowments, (Administration) Department, of the concerned division for the transaction of official business;

Provided that no meeting shall be held on a day declared by the State Government to be a public holiday.

4. Convening of the meeting of the Regional Committee. - The Assistant Commissioner, Hindu Religious and Charitable Endowments (Administration) Department of the division concerned, shall be the Convener of the meeting of the Regional Committee. He shall convene the meeting of the Regional Committee in consultation with the Chairman of the Regional Committee and assist in its deliberations. But he shall not be considered as a member of the Regional Committee.

5. Issue of notice for the convening of the meeting. - (1) The Convener shall be responsible for the issue of notice of meeting, preparation of agenda, and the arrangements for the meetings, etc.

(2) Meetings of the Regional Committee shall be convened after issue of notice specifying the date, time, and place of meeting. Such notice shall be issued at least seven clear days before the date of the meeting.

(3) The agenda for the meeting shall contain, among others, the names of the institutions, names and other particulars of applications and shall be sent to the Chairman and other members of the Committee along with the notice, by registered post, to their usual place of residence.

(4) In cases of urgency, the convener may convene a meeting on giving shorter notice than that specified in Sub-rule (2).

6. Chairman shall preside over the meeting. - (1) Every meeting of the Regional Committee shall be presided over by the Chairman and in his absence, the members present may choose one from among themselves to preside over the meeting.

(2) The Chairman or the presiding member, as the case may be, shall preserve order and shall decide all points of order arising at the meeting and the decision of the Chairman or the presiding member, as the case may be, on any point of order shall be final.

7. The quorum. - (1) The quorum for the transaction of the business at a meeting shall be three.

(2) If, within half-an-hour after the time appointed for the meeting, there is no quorum, the meeting shall stand adjourned unless all the members present agree to wait longer.

8. Preparation of panel of names of qualified persons. - The Regional Committee shall, from the applications received, prepare a panel of qualified persons not exceeding ten in number, for each religious institution of whom three shall be members of Scheduled Castes or Scheduled Tribes or less than three, if the number of applications received from such members is less, for being appointed as trustees.

9. Custody of minutes books, etc. - The minutes of the proceedings of the meeting of the Regional Committee shall be recorded in a book to be kept for the purpose and shall be signed by the Chairman or in his absence by the presiding member, as the case may be and by all other members present at the meeting. Any minute of dissent shall be recorded, if required, by the dissenting member. The minutes book and other records of the proceedings of the Regional Committee, shall be kept in the custody of the Assistant Commissioner in the office.

10. Access of members to relevant papers. - All papers relating to the agenda shall be made available to the members for inspection at the time on or before the convening of the meeting.

11. Decision by majority of votes. - The questions coming before any meeting shall be decided by a majority of the votes of the members present and when the votes are equally divided, the Chairman or the presiding member, as the case may be, shall have and exercise a second and casting vote.

12. Public are barred from attending the meeting. - The meetings of the Regional Committee shall not be open to the public.

13. Communication of the proceedings of the meetings. - The Assistant Commissioner being the Convener shall forward to the Commissioner and the Deputy Commissioner concerned, a copy of the minutes of the proceedings of every meeting of the Regional Committee within seven days from the date of the meeting. He shall bring to the notice of the Commissioner and the Deputy Commissioner concerned, irregularity, if any, in respect of any item of the proceedings of the Regional Committee and suggest such action as he may consider necessary.

14. Ceasing to hold office. - The Chairman of the Regional Committee or any member thereof shall cease to hold office if he absents himself for three consecutive meetings of the Regional Committee without sufficient cause.

Provided that when a person who has ceased to be the Chairman or member by reasons of such absence, applies for restoration within one month from the date of the last of three meetings, the Regional Committee may, at the meeting next after the receipt of such application, restore him to his office of Chairman or member but such restoration shall not be more than once during his term of office.

15. Resignation of members. - The Chairman or any member of the Regional Committee may resign his office by giving notice in writing to the Government and his resignation shall become effective on its acceptance by the Government.

16. Filling up of the vacancy. - A casual vacancy created by the resignation of Chairman of a member under Rule 15 or otherwise, shall be filled up by fresh appointment by the Government. The term of office of such members shall be for the remainder of the term of the member in whose place he is appointed.

17. Travelling Allowances to the Chairman and members. - (1) The Chairman and members of the Regional Committee shall be paid Travelling Allowance and Daily Allowance at the rates allowed to Members of the First Class Government Committee.

(2) The Deputy Commissioner, having jurisdiction over the area, shall be the counter-signing and drawing officer for Travelling Allowance bills of the Chairman and members of the Regional Committee, received through the Assistant Commissioner concerned.

18. Expenditure towards the meeting of the Committee. - The expenditure for the meetings of the Regional Committee and the Travelling Allowance of the Chairman and members of the Regional Committee shall be met from the Hindu Religious and Charitable Endowments (Administration) Department Fund.

CONDUCT OF BUSINESS OF AREA COMMITTEE RULES, 1960.

*[Published in the Fort St. George Gazette, Part V, Page 680,
dated 21st December, 1960.]*

S.R.O.No.A.709 of 1960. - In exercise of the powers conferred by Sec.18 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959) the Governor of Madras hereby makes the following rules:

RULES

1. These rules may be called "THE CONDUCT OF BUSINESS OF AREA COMMITTEE RULES."

2. Every meeting of the Area Committee shall be convened by the Secretary in consultation with the Chairman.

3. The Area Committee shall meet in the office of the Secretary for the transaction of business at least once in every month on such days and at such times as may be fixed.

Provided that no meeting shall be held on a day declared by the State Government by notification in the Official Gazette to be a public holiday.

4. (1) No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given at least seven clear days before the day of the meeting.

(2) In cases of urgency, the Secretary may, for special reasons to be recorded in writing, convene the meeting giving shorter notice than that specified in Sub-rule (1).

(3) The agenda for the meeting shall be prepared by the Secretary.

5. The Secretary shall, on the requisition in writing of not less than two members of the Committee, convene a meeting of the Committee, provided that the requisition specifies a day not being a day declared by the State Government by notification in the Official Gazette to be a public holiday and the purpose for which the meeting is to be held. The requisition shall be delivered to the Secretary at least ten clear days before the day specified in the requisition for the meeting.

6. Notice of the meetings with copy of the agenda shall ordinarily be sent by post to the members of the Committee to their usual place of residence.

7. Where the number of members in the Area Committee is four, the quorum for the meeting shall be three and where it is three, the quorum shall be two.

8. If, within half an hour after the time appointed for a meeting, there is no quorum, the meeting shall stand adjourned, unless all the members present agree to wait longer.

9. The subjects on the agenda before the meeting shall be taken up and disposed of in the order in which they appear in the agenda for the meeting, unless the Committee decides to give procedure to any subject or subjects on the agenda. No subject not on the agenda shall be taken up at a meeting except with the consent of all the members present.

10. (1) In the absence of the Chairman at the time appointed for a meeting, the members present may, if they desire the meeting to be held, choose one of themselves to preside over the meeting.

(2) The Chairman or the presiding member, as the case may be, shall reserve order and shall decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the Chairman on any point of order shall be final.

11. All the meetings of the Committee shall be open to the public, provided that the Chairman may, and at the request of the Committee, shall in any particular case, for reasons to be recorded in writing direct that the public generally, or any particular person, shall withdraw.

12. No resolution of the Committee shall be modified or cancelled within three months after the passing thereof, except at a meeting specially convened in that behalf and by a resolution of the Committee supported by all the members of the Committee, provided that this rule shall not apply to resolutions remitted by the Commissioner for reconsideration under Sec.2 (3).

13. Minutes of the proceedings at each meeting of the Committee shall be recorded by the Secretary in a book to be kept for that purpose and shall be signed by the Chairman or the presiding member and members present as the case may be. Any minute of dissent shall be recorded, if required, by the member of the Committee dissenting.

14. Within seven days of the date of the meeting, a copy of the minutes of the proceedings of such meeting shall be forwarded by the Secretary to each of the members of the Committee and an authentic copy of the said minutes shall also be affixed to the notice-board of the office of the Assistant Commissioner.

15. The Secretary shall have the custody of the proceedings and records of the meetings of the Committee.

16. The Chairman may, at his discretion, obtain the opinion of all the members of the Committee on any urgent or special matter by circulation of the records among all the members of the Committee. Such decision ascertained in circulation shall be placed before the next meeting of the Area Committee for confirmation.

17. The papers relating to the subjects on the agenda placed before a meeting of the Committee shall be open to inspection by the members of the Committee before the commencement of the meeting.

THE TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS SUBORDINATE SERVICE RULES, 1962.

[Published in Fort St George Gazette, Part V, Pages 633-635, dated 1st August, 1962]

[G.O. No.3017, dated 19th July, 1962]

S.R.No.A. 675 dated 19th July, 1962. - In exercise of the powers conferred by the proviso to Art.309 of the Constitution of India read with Sec.12 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959) the Governor of Madras hereby makes the following Rules.

RULES

These Rules hereby made shall be deemed to have come into force on the 1st January, 1960. -

1. Constitution. - The service shall consist of the following grades of officers, namely

- (i) Executive Officers-First Grade
- (ii) Executive Officers-Second Grade
- (iii) Executive Officers-Third Grade
- (iv) Executive Officers-Fourth Grade
- (v) Executive Officers-Fifth Grade

2. Appointment. - (a) Appointment to each grade specified in the column (1) of the table below shall be made according to the methods specified in the corresponding entry in column (2) thereof.

Grades (1)

1. Executive Officers-First
Grade to Fourth Grade

2. Executive Officers-Fifth
Grade

Explanation-I

Explanation-II

Explanation-III

The Table**Methods of Recruitment (2)**

(i) Direct Recruitment.

(ii) Promotion from the next lower
Grade;

(iii) Recruitment by transfer from members of the
Madras Ministerial Service of the Hindu Religious and
Charitable Endowments, (Administration) Department,
or any other Departments of Government.

Direct Recruitment

Only person professing the Hindu Religion as required
by Sec.10 of the Madras Hindu Religious and Charitable
Endowments Act, 1959 (Madras Act, 22 of 1959) shall
be eligible for appointment as Executive Officer.

In making appointment to any of the grades of Executive
officers by direct recruitment, preference shall be given
to employees of religious institutions who have put in
not less than five years service.

Women candidate shall not be eligible for appointment
as Executive Officers.

¹[(b) (i) In respect of appointment to the post of Executive officer, first grade, Three out
of every five vacancies shall be filled in by direct recruitment while the other two shall be filled
in by any of the other methods specified in Sub-rule (a); and

(ii) In respect of appointment to the post of Executive officers, Second Grade, Third
Grade, and Fourth Grade, two out of every five given vacancies shall be filled in by direct
recruitment while the other three shall be filled in by any of the other methods specified in Sub-
rule (a);

Provided that the Government may, for special reason alter the proposition specified in
this Sub-rule]

3. Qualification. -(a) No persons shall be eligible for appointment by direct recruitment
or recruitment by transfer to the grades specified in column (1) of the Table below, unless he
possesses the qualifications specified in the corresponding entries in column (2) thereof.

The Table**Grades****Qualifications**

Executive Officers Grade-I

(i) Must possess a degree in law of the Madras
University

(ii) Must have completed 30 years of age and must not
have completed 35 years of age on the first day of July
of the year in which the selection for appointment is
made.

1. Sub-rule (b) of Rule 2 substituted by G.O.M.S.No.1670, Revenue, dated 21st August, 1968.

Executive Officer-Grade-II

(i) A degree in Arts or Science or Commerce of the Madras or Annamalai University.

(ii) Must have completed 25 years of age and must not have completed 35 years of age on the 1st day of July of the year in which the selection for appointment is made.

Executive Officer-Grade-III

(i) Must possess a degree in Arts or Science or Commerce of the Madras or Annamalai University.

(ii) Must have completed 25 years of age and must not have completed 35 years of age on the 1st day of July of the year in which the selection for appointment is made.

Executive Officer-Grade-IV

(i) Must possess the minimum general educational qualifications prescribed in the schedule to the general Rules for the Tamil Nadu State and Subordinate Service.

(ii) Must have completed 25 years of age and must not have completed 35 years of age on the 1st day of July of the year in which the selection for appointment is made.

Executive Officer-Grade-V

(1) Must have passed the III form or VIII Standard in a recognized Secondary School or Higher Elementary School.

(2) Must have completed 25 years of age and must not have completed 35 years of age on the 1st day of July of the year in which the selection for appointment is made.

(b) Nothing contained in this rule shall adversely affect any person belonging to Hindu Religious and Charitable Endowments (Administration) Department, or any other Department of the Government who is working as an Executive Officer on the date of coming into force of these rules.

(c) The minimum age limit prescribed for the grades II and III above shall not apply to the persons possessing a degree of the college of oriental culture of any University as defined in clause (1) of Sec.2 of the University Grants Commission Act, 1956 (Central Act, 3 of 1956).

The age and educational qualifications prescribed in Sub-rule (a) above shall not apply to persons recruited by transfer from the Tamil Nadu Ministerial Service of the Hindu Religious and Charitable Endowments (Administrative Department).

4. Reservation of appointment. - The rule of reservation of appointments (General Rule 22) shall apply to the appointment of Executive Officers by direct recruitment of each of the five grades being treated as a separate unit for this purpose.

5. Appointing Authority. - The Commissioner, Hindu Religious and Charitable Endowments (Administration) Department shall be the appointing authority in respect of all Grades.

6. Unit for appointment as full member. - The entire State shall be the unit for all purposes for the several grades of Executive Officers.

7. Probation. - Every person appointed to any of the grades shall, from the date on which he joins duty, be on probation for a total period of two years on duty within a continuous period of three years.

¹[8. **Tests to be passed during probation.**- Executive Officers, Grades I to III, who are direct recruits, shall pass the following tests within the period of probation namely:

- (1) The Account Test for Executive Officers;
- (2) The Hindu Religious and Charitable Endowment (Administration) Departmental Test; and
- (3) The Government Technical Examination in book-keeping by the lower Grade:

Provided that the Executive Officers holding the B.Com. Degree shall not be required to pass the Government Technical Examination in book-keeping by the Lower Grade.]

9.Promotion. - Promotion from one Grade to the Next higher Grade shall be made on grounds of Merit and ability, seniority being considered only where merit and ability are approximately equal.

Tests to be passed for Promotion

(a) No Executive officer of Grade IV, III or II shall be promoted to the next higher grade unless he passes the following tests, namely; (1) The Account Test for Executive officers; (2) The Hindu Religious and Charitable Endowments (Administration) Department Test. (3) The Government Technical Examination in book-keeping by the lower grade:

Provided that the executive officers holding the B.Com., degree shall not be required to pass the Government Technical Examination in book-keeping by the lower grade;

Provided further that no person recruited to Grade V shall be eligible for promotion to Grade IV and above unless he possesses the minimum general educational qualification prescribed in the General Rules for Tamil Nadu and subordinate services.

¹[(b) **Tests to be passed for promotion.** - No executive officer of Grade IV, III or II shall be promoted to the next higher grade unless he passes the following tests, namely; -

- (1) The Account Test for Executive Officers;
- (2) The Hindu Religious and Charitable Endowment (Administration) Department Test;
- (3) The Government Technical Examination in book-keeping by the lower Grade;

Provided that the Executive Officers holding the B.Com., degree shall not be required to pass the Government Technical Examination in book-keeping by the lower grade;

Provided further that no person recruited to Grade V shall be eligible for promotion to Grade IV and above, unless he possesses the minimum general educational qualification prescribed in the General Rules for the Tamil Nadu and subordinate services.]

10.Training. - Every executive officer appointed by direct recruitment shall undergo a course of training for a period of one month in such manner as may be specified by the Commissioner.

²[11. Notwithstanding anything contained in these rules, the Government may, appoint an officer belonging to the Madras Hindu Religious and Charitable Endowments (Administration) Service or any other state service as first Grade Executive Officer. The officer so appointed shall be eligible to draw his pay in the regular line from which he is appointed].

12. Notwithstanding anything contained in these rules, Government may appoint an

1. Rule 8 and Rule 9 Clause (b) substituted by G.O..Ms.No.1254, Revenue dated 19th June, 1969.

2. Rule 11 added by Sr.No.1.311 of 1963 dated 21st February, 1963, Published in the Fort St. George Gazette, Part V, page 343, dated 13th March, 1963.

officer belonging to the Tamil Nadu Hindu Religious and Charitable Endowments (Administration) Service or any other state service as First Grade Executive Officer. The Officer so appointed shall be eligible to draw his pay in the regular line from which he is appointed.

13. Travelling Allowance on Transfer. The Transfer, the Travelling Allowance, and transit pay of the Executive Officer shall be recoverable from the funds of the institutions to which the Executive Officer is transferred.

14. Security. In regard to the security to be furnished by the Executive Officers, the rules framed under Sec.116 (2) (xvi) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, shall apply.

Rule 11 of Principal rules:

11. Transfer and Posting:- Transfer of Executive Officer (Grades I to IV) from one institution to another within the territorial jurisdiction of a Deputy Commissioner shall be made by the Deputy Commissioner or by the Commissioner whether the institution be a listed or non-listed one. The Commissioner shall exercise the power of the transfer of an Executive Officer from the Territorial Jurisdiction of one Deputy Commissioner to that of another Deputy Commissioner.

DELEGATION OF POWERS RULES, 1960.

[Published in the Fort St. George Gazette, Part V, page 680, dated 21st December, 1960.]

[G.O. No. 4850, Revenue, dated 26th November, 1960.]

S.R.O.No.A-708 of 1960. - In exercise of powers conferred by Sec.116, read with Sub-sec.(2) of Sec.13 and Sub-sec.(3) of Sec.14 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. These rules may be called THE DELEGATION OF POWERS RULES.
2. Delegation of the Commissioner's powers and duties to a ¹[Joint Commissioner or a Deputy Commissioner] under Sec.13 (2) or an Assistant Commissioner under Sec.14 (3) shall be made in writing.
3. The Commissioner shall have power to vary or cancel an order of delegation and such an order shall be in writing.
4. An order delegating the powers and duties of the Commissioner to ¹[a Joint Commissioner or a Deputy Commissioner] or an Assistant Commissioner or modifying or cancelling the delegation, shall be published in the Fort St. George Gazette and in the Direct Gazette in the language or languages of the district or districts concerned if any, by affixture on the notice-boards of the offices of the Commissioner, ¹[a Joint or Deputy Commissioner] and Assistant Commissioners.
5. The Commissioner, while delegating any of his power, shall expressly reserve to himself the right of exercising the powers vested in him under Secs.21 and 22 over the orders passed by ²[a Joint Commissioner, a Deputy Commissioner] or Assistant Commissioner under the delegated powers.

1. The words "Joint Commissioner" added to the word Deputy Commissioner by G.O.Ms.No.200, Commercial Taxes and Religious Endowments, dated 30th May 1996.

2. The words Joint Commissioner added by G.O. Ms. No.275, Commercial Taxes and Religious Institutions, dated 16th July 1997.

SUBMISSION OF BUDGETS, DEPOSITS, ACCOUNTS, RETURNS, OR OTHER INFORMATION RULES, 1961.

[Published in Fort St. George Gazette, Part-V, pages 1215 to 1229, dated 26th September, 1961]

[G.O.No.4065, Revenue, dated 26th September, 1961]

SRO. No. 11185 of 1961. - In exercise of the powers conferred by Clause(vii) of Sub-sec.(2) of Sec.116 read with Sec.32 and Sub-secs.(1) and (3) of Sec.86 of the Madras Hindu Religious and Charitable Endowment Act, 1959 (Madras Act, XXII of 1959), the Governor of Madras hereby makes the following Rules.

RULES

1. Short title. - These rules may be called "THE SUBMISSION OF BUDGETS, DEPOSITS, ACCOUNTS, RETURNS, OR OTHER INFORMATION RULES, 1961."

2. Explanatory Memorandum to accompany budget. - Every budget, revised budget or supplemental budget submitted under Sec.86 shall be accompanied by an explanatory memorandum with reference to each major item of estimated receipt and charge and it shall be in the form shown in Appendix I to these rules in case of institutions getting an annual income of more than Rs. 5,000 and in the form shown in Appendix II to these rules in the case of institutions getting an annual income of Rs.5000 and less. The budget, revised budget or supplemental budget shall also be accompanied by the statements specified below; -

- (a) Statement of assets (other than refundable deposits) as on 1st March.
 - (1) Cash on hand;
 - (2) Cash on current and savings account,
 - (3) Value of grains and stores,
 - (4) Investments in fixed deposits, National Saving Certificates, Government bonds and shares with details as to each items.
 - (5) Arrears under inams and leases of lands, buildings, sites and other rights and decrees.
 - (6) Advances recoverable other than Law charges
 - (7) Advances recoverable Law charges
 - (8) Loans to be recovered (with information as to date of sanction and terms of repayment) of each item.
- (b) Statement of liabilities as on 1st March.
 - (1) Loans (with information as to date on which taken and terms of payment);
 - (2) Taxes, licences fees, contribution to local bodies, and contribution and costs and expenses under Secs.92 and 93.
 - (3) Value of provisions, etc. to be paid for
 - (4) Salaries and allowances.
- (c) Statement as on 1st March of Refundable Deposits made by lessees, contractors, employees, etc., with information as to how each amount is invested or held.
- (d) *Dhittam* as in force for daily pooja and festivals.
- (e) Schedule of establishment including *ulthurai* with information as to pay drawn, the pay that will be drawn at the beginning of the fasli and the increments that may fall due, during the fasli to which the budget relates.
- (f) Schedule of establishment as sanctioned or in vogue and a copy of the order of sanction.

(g) A copy of sanctioned programme of work under Sec.116(2)(xxiii) and a copy of the order of sanction.

(h) Detailed estimates for major repairs and constitutions costing Rs.500 and more and copies or orders of sanction, if any, by the competent authority.

Provided that in the case of institutions getting as annual income of less than Rs. 5,000 Statement (f) to (h) need not be sent.

3. Statement to be submitted by the trustee regarding value of tools etc. - The trustees of every religious institutions shall, before the end of August in each year, submit as on the last day of June of the year a statement giving the following information:

- (1) Value of tools and plants less depreciation.
- (2) Value of lands and buildings belonging to the Institution.
- (3) Value of Stamps on hand including postage.
- (4) Demand, collection and Balance Statement for the *fasli* in respect of lands, buildings, sites, and their immovable properties, and rights and decrees.
- (5) Statement of alterations, omissions or additions as required under Sec.30.

4. Demand, Collection and Balance Statement to be submitted by the trustee. - The trustee of every religious institution shall, before the end of January in each year, submit a Demand, Collection and Balance Statement for the half-year ending with 31st December in respect of lands, sites, buildings and other immovable properties and rights and decrees.

5. Abstract of receipt and expenditure to be submitted by the trustee. - The trustee of every religious institution shall submit within 15 days after the close of each quarter, an abstract of the receipt and disbursement of the quarter under each of the budget heads.

In the case of institutions subject to concurrent audit, the trustee of the institutions shall make available each month's accounts to the auditor before the 20th of the succeeding month.

¹**[6. Statements, etc., to be submitted.-** The statements, returns and reports mentioned in rules 2 to 5 shall be submitted in the following manner:-

- | | |
|--|--|
| (a) In the case of institutions whose annual assessable income exceeds Rs. 10 lakhs | To the Commissioner |
| (b) In the case of institutions, whose annual assessable income exceeds Rs. 2 lakhs but does not exceed Rs. 10 lakhs | To the Commissioner |
| (c) In the case of institutions, whose annual assessable income exceeds Rs. 10,000 but does not exceed Rs. 2 lakhs. | To the Joint Commissioner or the Deputy Commissioner, as the case may be, having jurisdiction. |
| (d) In the case of institution, not included in the list published under Sec.46 and is not notified and deemed to have been notified under Chapter VI of this Act (Non-listed) | To the Assistant Commissioner having Jurisdiction.] |

7. Listed Institutions to send administration report. - In respect of every religious institutions included in the list published under Sec.46, an administration report for every *fasli* shall be sent to the commissioner within three months of the completion of *fasli* year.

1. Rules 6 to 9 substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

Amendment Particulars

²[6. **To whom Statements, etc., to be submitted.**- The Statements, returns and reports mentioned in Rules 2 to 5 shall be submitted to the respective authorities mentioned in Sections 86(1)(a), (b) and (c) of the Act].

2. Rule 6 substituted by G.O.Ms.No.1361, Revenue, dated 5th April 1963, S.R.O.No.A 441/1963.

Rule 14 omitted by G.O.Ms.No.1361, Revenue, dated 5th April 1963, S.R.O.No.A 441/1963.

³[6. **Statements, etc., to be submitted.**- The Statements, returns and reports mentioned in Rules 2 to 5 shall be submitted in the following manner:-

- (a) In the case of institutions whose annual assessable income exceeds Rs.10 lakhs.
- (b) In the case of institutions whose annual assessable income exceeds Rs.1 lakh but does not exceed Rs.10 lakhs.
- (c) In the case of institutions whose annual assessable income exceeds Rs.10 thousand and does not exceed Rs.1 lakh.
- (d) In the case of institutions not included in the list published under Sec.46 and is not as institution notified and deemed to have notified under Chapter VI of the Act.

To the Tamil Nadu Temple Administration Board through the Commissioner.

To the Tamil Nadu Temple Administration Board through the Deputy Commissioner having Jurisdiction and the Commissioner.

To the District Committee through the Deputy Commissioner having Jurisdiction; and

To the District Committee through the Assistant Commissioner having Jurisdiction.

7. Listed institutions to send administration reports.- In respect of every religious institutions included in the list published under Section 46, an administration report for every fasli shall be sent to the Secretary, Tamil Nadu Temple Administration Board within three months of the completion of fasli year, who shall place such report before the meeting of the Tamil Nadu Temple Administration Board.

3. Rules 6, 7, 8 and 9 substituted by G.O.Ms.No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

8. In respect of every religious institution the annual income of which is not less than Rs.1000, a copy of the budget as approved by the Tamil Nadu Temple Administration Board or as the case may be by the District Committee shall be sent to the auditor concerned.

9. Notice to be given to the trustees before making alteration, omissions or additions in the budget.- The Assistant Commissioner, Deputy Commissioner or the Commissioner as the case may be, shall on behalf of the District Committee and the Tamil Nadu Temple Administration Board respectively issue notice in the first instance when in their opinion that the budget requires alterations, omissions or additions, a notice shall be given to the trustee or where there are more trustees than one, to the Chairman of the Board of Trustees by registered post with acknowledgement due or served by delivery in person to show-cause why such alterations, omissions or additions shall not be made. After obtaining the representation if any, received, the budget shall be placed before the Tamil Nadu Temple Administration Board or District Committee as the case may be for its approval with or without modifications and to make such alterations, omissions or additions in the budget as it deemed fit in accordance with Sec.86(3) of the Act.]

RULES 7, 8, 9 PRIOR TO AMENDMENT BY G.O.Ms.No.506

Commercial Taxes and Hindu Religious Endowments, dated 13th December 1991.

[7. Listed institutions to send administration report.- In respect of every religious institution included in the list published under Sec.46 an administration report for every fasli shall be sent to the Commissioner before the end of the succeeding September.

8. A copy of the budget as approved to be sent to the Auditors.- In respect of every religious institution the annual income of which is not less than Rs.1000, a copy of the budget as approved by the Assistant Commissioner, Deputy Commissioner or the Commissioner as the case may be shall be sent to the auditor concerned.

9. Notice to be given to the trustees before making alteration, omissions or additions to the budget.- When in the opinion of the Assistant Commissioner, Deputy Commissioner, or the Commissioner as the case may be, the budget requires alterations, omissions or additions, a notice shall be given to the trustee or where there are more trustees then one, to the Chairman of the Board of Trustees by registered post acknowledgement due or served by delivery in person to show cause why such alterations, omissions or additions shall not be made.

4. In Rules 8, 9, 11 and 13 the words "Assistant Commissioner" substituted for the words "Area Committee" by S.R.O.No.A 660 of 1970.

8. In respect of every religious institutions, the annual income of which is not less than Rs. 2,000, a copy of the budget as approved by The Commissioner, The Joint Commissioner, The Deputy Commissioner, or the Assistant Commissioner, as the case may be, shall be sent to the auditor concerned.

9. **Notice to be given to the trustee before making alterations, omissions or additions in the budget.** - The Assistant Commissioner, the Deputy Commissioner, the Joint Commissioner, the Commissioner, as the case may be, shall issue notice in the first instance when in their opinion, the budget requires alteration, omissions or additions, a notice shall be given to the executive authorities of religious institutions by registered post with acknowledgement due or served by delivery in person to show cause why such alterations, omissions or additions shall not be made. After obtaining the representation, if any, the budget shall be approved with or without modification and to make such alterations, omissions or additions in the budget as deemed fit in accordance with Sub-sec.(3) of Sec.86 of the Act.

Rules 6 to 9 substituted by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated 16th July 1997.

10. **Contents of the notice.** - Such notice shall state in what respect the budget is defective, which if the provisions therein is either excessive, inadequate or incorrect or inadmissible and whether any provision is necessary for any purpose.

11. **Time limits for making representations.** - The notice shall specify a reasonable time within which the trustee should submit his representations and if any representations are received. ¹[a date for an inquiry into those representations may be in the discretion of the Assistant Commissioner, Deputy Commissioner, Joint Commissioner or the Commissioner as the case may be fixed.]

12. **Publication of notice.** - The notice shall be published by affixture of a copy on the notice-board on a conspicuous part of the premises of the math or temple or temple to which the specific endowment is attached, and where the specific endowment is attached to more than one math or temple, by affixture on the notice-board of the village chavadi, and if there is no village chavadi in some other public places in the village wherein the property of the specific endowment is suitable.

13. **Affixture of notice, if the addressee is not available or refuses to receive notice.** - If, The Commissioner, ²[The Joint Commissioner], The Deputy Commissioner or The Assistant Commissioner, ³[XXX] is satisfied that the person to whom a notice is sent willfully absents himself from his residence or refuses to receive the notice he may order that the notice shall be affixed on the front door or other conspicuous place in his usual place of residence. If the person has changed his residence, the notice shall be sent to the changed address, if it is known, or a

1. In Rule 11 substituted for the expressions "a date for an inquiry into those representations may be fixed in the discretion of the Assistant Commissioner, the Deputy Commissioner or the Commissioner as the case may be, acting on behalf of the Tamil Nadu Temple Administration Board or District Committee by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997".

2. The word "Joint Commissioner" added by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

3. The words "acting on behalf of the Tamil Nadu Temple Administration Board and the District Committee" G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 13th December, 1991 and omitted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

1. Rule 6 to 9 substituted by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated, 16th July 1997.

copy of the notice shall be sent to the changed address, if it is known, or a copy of the notice shall be affixed on the front door or other conspicuous place of the last known residence. On such affixture he may declare that there has been sufficient service.

14. ¹[XXX]

APPENDIX I

[See Rule 2 issued under Sec.116 (2) (vii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (Tamil Nadu Act, 22 of 1959).]

STATEMENT A - RECEIPTS.

Statement showing the probable receipts for fasli 13 (From 1st July to 30th June 19....)

Actuals-Faslis.

Revised Estimate for fasli 13

13 13 13

(1)	(2)	(3)	Average for a fasli [Cols.(1) to (3).]	Budget estimate for the previous fasli	Actuals, July 19 to February 19	Probable receipts. March 19 to June 19	Total	Heads of Receipts	Budget estimates fasli 13.	Remarks	Amount Sanctioned by the competent authority
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
								Opening Balance-			
								(i) Cash			
								(ii) Current and Savings Bank Accounts			
								(iii) Value of grains, quantity, rate, etc.			
								A. RECEIPTS-ORDINARY			
								1. Lands-			
								(i) Income from leases (cash) ...			
								(ii) Income from leases (kind). Quantity and rate (amount). Income from Pannai cultivation, quantity (kind) and rate.			
								(iii) Income from other items			
								Total			
								2. Buildings and sites-			
								(i) Rents from houses, shops, etc.			
								(ii) Rents from vacant sites			
								Total			

1. Rule 14 omitted by G.O. Ms. No. 1361, Revenue, dated 5th April, 1963, SRO. No. A 441 / 1963.

3. Devotive offerings and Ubayams-

(i) Ubayams	...	...
(a) Cash	...	...
(b) Kind	...	...
(ii) Hundi collections	...	...
Sale of uncurrent coins	...	...
Sale price of ubayams in kind	...	...
(iii) Fees for the procession of deities and the like.	...	...
(iv) Contributions made on ceremonial occasions, such as marriages, upanayanams, etc.	...	...
(v) Income from fees for abishekam, archana, etc., deducting payment to service-holders.	...	...
(vi) Other items	...	...

Total

4. Grants-

(i) Tasdik	...	...
(ii) Mohini	...	...
(iii) Compensation received from Government under Revenue Recovery Act, and Estates Abolition Act in the case of Inams Estates.	...	...
(iv) Other grants	...	...

Total

5. Income from investments-

6. Miscellaneous-

(i) Fines	...	...
(ii) Sale of prasadam	...	...
(iii) Income from remunerative enterprises	...	...
(iv) Law charges-A. Cost received	...	...
(v) Lapsed deposits	...	...

Total of 1 to 6

Actuals-Faslis. Revised Estimate for fasli 13
13 13 13

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Average for a fasli [Cols.(1) to (3).]	Budget estimates for the previous fasli	Actuals, July 19 to February 19	Probable receipts. March 19 to June 19	Total	Heads of Receipts	Budget estimates fasli 13.	Remarks	Amount Sanctioned by the competent authority

B.RECEIPTS –CAPITAL.

- (i) Sale proceeds of immovable properties.
- (ii) Sale proceeds of movable properties acquired for the use of institution.
- (iii) Donation for specific purposes in the Institution.
- (iv) Investments realised.
- (v) Loans recovered
- (vi) Loans received
- (vii) Compensation received from Government under Estates Abolition Act in respect of zamindary and under tenure estates.
- (viii) Other items

C. Deposits and Advances

- (a). Deposits received.
 - (i) Lease deposits
 - (ii) Security Deposits
 - (iii) Interest on lease and other deposits.
 - (iv) Other deposits.

Total(a)

(b) Advances recovered-

- (i) Advances to lawyers... ..
- (ii) Other Advances

Total(b)

Total of (a) and (b)

Grand total including opening balance.

Actuals-Faslis

Revised Estimates for fasli 13

13 13 13

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Average for a fasli	Budget estimates for the previous fasli	Actuals, July 19 to February 19	Probable receipts, March 19 to June 19	Total	Heads of disbursements	Budget estimates fasli 13.	Remarks	Amount Sanctioned by the competent authority
								6. Expenditure-Ordinary-			
								(i) Pay of officers	...	...	
								(ii) Pay of other establishments	...	...	
								(iii) Dearness Allowance	...	...	
								(iv) Other compensatory allowances			
								(v) Leave salary of officers including Provident Fund contribution and pensionary contribution.			
								(vi) Leave salary of other establishments.			
								7. Travelling Allowances-			
								(i) Travelling Allowances of officers.			
								(ii) Travelling Allowances of establishment.			
								(iii) Travelling Allowances of trustees			
								Total of travelling allowances			

Actuals-Faslis

Revised Estimate for fasli 13

13 13 13

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Average for a fasli	Budget estimates for the previous fasli	Actuals, July 19 to February 19	Probable receipts. March 19 to June 19	Total	Heads of disbursements	Budget estimates fasli 13.	Remarks	Amount Sanctioned by the competent authority

8. Other Charges-

- (i) Rents, rates, and taxes... ..
- (a) Office rent
- (b) Revenue paid to Government
- (c) Cesses paid to District Boards, Panchayats or Municipalities or Corporation of Madras.
- (d) Taxes, Licence fees paid to municipalities or Corporation of Madras, District Boards or Panchayats
- (e) Contributions under Sec.92 (1)
- (f) Audit fees under Sec.22 (2)

Total, rents, rates, and taxes

- (ii) Service postage
- (iii) Electric charges
- (iv) Telephone charges
- (v) Printing
- (vi) Stationery
- (vii) Books and periodicals... ..
- (viii) Law charges
- (a) Court fees
- (b) Lawyer's fees
- (c) Out fees
- (d) Others

Total law charges

- (ix) Miscellaneous... ..

Total other charges

9. Puja expenses-

- (i) Paddy, rice and other grains
- (ii) Purchase of provisions – Other expenses (give details).

Total Puja Expenses

10. Festivals-

- (a) Paddy, rice and other grains.
- (b) Purchase of provisions
- (c) Other expenses (give details).

Total festivals expenses

11. Ubayams – Expenses from out of collections towards ubayams.

- (a) Maintenance of or repairs to irrigation works.
- (b) Seed or seedlings
- (c) Manure
- (d) Maintenance of cattle for cultivation.

Actuals-Faslis. Revised Estimates for fasli 13
13 13 13

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Average for a fasli	Budget estimate for the previous fasli	Actuals, July 19 to February 19	Probable receipts. March 19 to June 19	Total	Heads of disbursements	Budget estimates fasli 13.	Remarks	Amount Sanctioned by the competent authority

12. Lands-

- (i) Cultivation charges in respect of lands under direct cultivation.
- (e) Purchase, maintenance and repair of agriculture implements.
- (f) Wages for ploughing, watering, sowing, transplanting, harvesting, thrashing, and other agricultural operations.
- (ii) others

Total (Lands):

13. Buildings Sundry repairs

Total (Buildings):

14. Paraphernalia-

- (a) Repairs to vahanams
- (b) Repairs to jewels ...
- (c) Repairs to vessels ...
- (d) Repairs to furniture
- (e) Maintenance of livestock ...
- (f) Remunerative enterprise ...
- (g) Other charges

Total

15. Education and Religious Lectures and Charities-

- (a) Propagation of the religious tenets of the institution.
- (b) Religious education.

(c) Training for Archakas and Adhyapakars, vedapauranikars and Othuvars.

(d) Charities and contributions to charities.

(e) Others.

...

Total

16. Public Health-

(a) Expenses for the health, safety or convenience of pilgrims, worshippers, etc.

(b) Contribution to local boards for sanitary arrangements.

Total

17. Miscellaneous-

(a) Refund of lapsed deposits ...

(b) Others ...

B. DISBURSEMENTS-CAPITAL.

(a) Purchase of immovable properties and rights.

(b) Major maramath ...

(c) Construction of new buildings and substantial addition to old buildings.

(d) Utilisation of donations for specific purposes.

(e) Purchase and making of vessels, jewellery, vahanams, furniture, etc.

(f) Purchase of livestock

Actuals-Faslis
13 13 13

Revised Estimates for fasli 13

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Average for a fasli [Cols (1) to (3)]	Budget estimates for the previous fasli	Actuals, July 19 to February 19	Probable receipts, March 19 to June 19	Total	Heads of disbursements	Budget estimates fasli 13.	Remarks	Amount Sanctioned by the competent authority

**B. DISBURSEMENTS—CAPITAL—
(contd.)**

(g) Investments other than Reserve Fund.

(h) Investments of Reserve Fund.

(i) Loans to others ...

(j) Loans repaid ...

Total

C. DEPOSITS AND ADVANCES.

(i) Advances—

(a) Refund of lease deposits ...

(b) Refund of security deposits

(c) Refund of miscellaneous advances

(d) Interest on lease, security, and other
deposits refundable.

(e) Advances recoverable.

(f) Advances towards law charges.

(g) Other advances ...

Total

(ii) Adjustments—

(a) Lease deposits ...

(b) Security deposits ...

(c) Miscellaneous advances

(d) Advances to law charges ...

(e) Interest on lease security and other
deposits refundable.

Total

Total of A, B and C

Closing Balance—

(a) Cash on hand ...

(b) Current Account ...

(c) Savings Bank Account ...

(d) Value of grains, quality and rate.

Total

Grand total including Closing Balance.

APPENDIX II(See Rule issued under Sec.116 (2) (vii) of the Tamil Nadu Hindu Religious and
Charitable Endowments Act, 1959)

(Tamil Nadu Act, 22 of 1959)

Form of Budget for temple with income of Rs. 5,000 and less.**Note.** - Heads of account alone are noted here. Other column numbers remaining the
same as those in main form.

HEADS OF RECEIPTS-**Opening balance-**

- (i) Cash
- (ii) Value of grains from leases ..
- (iii) Value of paddy on hand ..

A. RECEIPTS-ORDINARY -**1. Lands-**

- (i) Revenue from leases (cash) ..
- (ii) Value of grains from leases ..
- (iii) Value of grains from pannai cultivation
- (iv) Income from other items ..

2. Buildings and sites -

- (i) Rent from houses, shops, etc. ..
- (ii) Rent from vacant sites ..

3. Devotees offerings and ubayams-

- (i) Hundials
- (ii) Ubayams both cash and kind ..
- (iii) Income from fees for Mudi-Kanikkai, archanai, abishekam, etc., after deducting payment to service-holders.
- (iv) Kattalais and specific Endowments

(4) Grants-

- (i) Tasdic and Mohini ..
- (ii) Other grants

(5) Income from Investments-**6. Miscellaneous-**

(Here include item if not noted above specifying details)

Totals 1 to 6**B. RECEIPTS-CAPITAL-**

- (i) Sale proceeds of immovable properties
- (ii) Sale proceeds of movable properties for the use of the institution
- (iii) Loans recovered ..
- (iv) Loans received ..
- (v) Other items ..

Total ..

C. (i) Deposits ..

(ii) Advances ..

Total ..

Grand total including opening balance

HEADS OF DISBURSEMENTS-**A. Expenditure-Ordinary-**

- (1) Pay, Dearness Allowance and other compensatory allowance of Executive Officer and servants
- (2) Travelling Allowance of Executive Officer and servants
- (3) Travelling Allowance of trustees ..

- (4) Other charges-
 - (a) Postage, Printing, Stationery
 - (b) Office rent
 - (c) Revenue paid to Government
 - (d) Cesses and Taxes and licence fees to local authorities
 - (e) Contribution under Sec.92(1)
 - (f) Audit fees under Sec.92(1)
 - (g) Law charges
 - (h) Other items
- (5) (i) (a) Pooja expenses
 - (b) Value of paddy utilized ..
- (ii) (a) Annual Festival ..
- (b) Value of paddy utilized ..
- (6) (i) Ubayams ..
- (ii) Kattalai and Specific Endowments
- (7) Lands-
 - Charges on pannai cultivation including minor maramaths.
- (8) Buildings - Sundry repairs
- (9) Paraphernalia-
 - (a) Repairs to vahanams, jewels, vessels, furniture, etc.
 - (b) Maintenance of livestock
 - (c) Others
- (10) Miscellaneous-

(Here include item if not noted above with details)

Total 1 to 10 ..

B. DISBURSEMENT-CAPITAL-

- (i) Purchase of immovable properties
- (ii) Construction of new buildings
- (iii) Purchase of movables such as vessels, jewels, livestock, etc.
- (iv)(a) Investments other than Reserve Fund
- (b) Investments of Reserve Fund
- (v) Loans to others
- (vi) Loans repaid

Total

C. (a) Deposits

(b) Advances

Total

Totals of A, B and C

Closing balance-

- (a) Cash
- (b) Current and Savings Bank Account
- (c) Value of paddy on hand

Total

Grand total including closing balance

THE ALIENATION OF IMMOVABLE TRUST PROPERTY RULES, 1960.

[Published in the Fort St. George Gazette, supplement to part I, page 230, dated 18th May, 1960.]

[G.O. Ms. No. 866, Revenue, 15th February, 1960.]

S.R.O. No. A-347 of 1960. - In exercise of the powers conferred by Sub-sec.(2) (1) of Sec.116, read with Sub-secs.(1) and (3) of Sec.34 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959) the Governor of Madras hereby makes the following rules:

RULES

1. These rules may be called "THE ALIENATION OF IMMOVABLE TRUST PROPERTY RULES": -

2. (1) Notice of the proposals for any exchange, sale, or mortgage and any lease for a term exceeding five years of any immovable property belonging to, or given, or endowed, for the purposes of any religious institution shall contain particulars, in respect of the following, namely:

(a) nature of the proposed transaction

(b) correct description of the properties relating to the proposed transaction with information regarding the survey number, extent, and boundaries and ward number and door number, also in the case of properties within the limits of municipalities and the city of Madras;

(c) the revenue assessed on the properties relating to the proposed transaction by way of land revenue, cess, quit-rent, ground-rent, property tax, etc.

(d) any encumbrance to which the properties relating to the proposed transactions are subject;

(e) if the proposal is for mortgage, the amount for which the properties are proposed to be mortgaged; and

(f) if the proposal is for sale or lease, the probable price or the rental, as the case may be, that is expected.

¹[(g) the purpose for which the amounts raised is to be utilized.]

The notice shall specify a reasonable time, being not less than 30 days from the date of the issue of the notice, within which objections or suggestions may be sent. It shall also specify the date on which an enquiry, if any, is proposed to be held to consider the objections or suggestions. A copy of the notice shall be served in person, or sent by registered post with acknowledgement due, to the trustee or trustees of the religious institution concerned, and where the properties belong to a specific endowment, also to the trustee or trustees of the temple or math to which the specific endowment is attached. Any refusal or evasion to receive the notice shall be deemed to be sufficient notice.

(2) A copy of the notice shall be published by affixture-

(a) on the notice-board of the office of the Commissioner and the Assistant Commissioner having jurisdiction over the area in which the math or temple concerned is situated;

(b) on the notice-board or the front door of the math or temple concerned;

²[(c) on the notice-board of the office of the Municipal Council including the Corporation of Madras, the village chavadi or the Panchayat Union Council and if there is no village chavadi or Panchayat Union Council, in some other public place in the village in which the math or temple concerned is situate.]

1. In Rule 2 Sub-rule (1) new clause (g) inserted by S.R.O. No. A743 of 1961.

2. In Rule 2 Sub-rule (2) clause (c) substituted by S.R.O. No. A743 of 1961.

(d) in another conspicuous place in the locality which may be selected by the Commissioner in his discretion; and

(e) in at least one daily newspaper published in the language of the locality where the math or temple concerned is situate.

¹[XXX]

Note in the principal rules before omission.

Note.- Where the value of the property involved in the proposed transaction is less than Rs.300 the requirement of the publication of the notice in a daily newspaper may be dispensed with at the discretion of the Commissioner: Provided that where the proposal is in respect of a specific endowment, the properties of which are not situate in the village in which the temple or math is situate, the notice shall be published also in the village or villages in which the properties are situate.

2A ²[XXX]

Rule 2A before omission.

^{2a}[2A. The procedure specified in Rule 2 shall be complied with by Secretary to the Tamil Nadu Temple Administration Board who shall place the proposal with the records of enquiry before the meeting of the Tamil Nadu Temple Administration Board for its considerations and for arriving at a decision as it may deem necessary, and beneficial to the institution and to accord sanction therein;]

³[3. A copy of the ⁴[order sanctioning an exchange, sale or mortgage or lease for a term exceeding five years shall be communicated by the ⁵[Commissioner] in the form of proceedings under Sec.34 duly signed by him to the trustee or trustees and the person having interest, if any, who appeared in the proceedings and shall be published in the manner laid down in clauses (a) and (e) of Sub-rule (2) of the Rule 2 for the publication of the notice.] The order shall also be published:

(a) in the district Gazette in the language of the district concerned in the case of the math, or temple, or specific endowments attached to a math or temple situated in the district; or

(b) in the Tamil Nadu Government Gazette in the case of a math or temple or specific endowments attached to a math or temple situated in the ⁶[city of Chennai] or to specific endowments attached to math or temple situated in more than one district.]

(c) on the notice board of the office of the municipal council, including the Corporation of the village chavadi and if there is no village chavadi, in some other public place in the village in which the math or temple concerned is situate;

1. In Rule 2 Sub-rule (2) Note omitted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16.7.1997.

2. Rule 2A omitted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16.7.97.

2a. Rule 2A inserted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 13.12.91.

3. Rule 3 substituted by *Ibid*.

3. Rule 3 substituted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 31.12.1991 and the Rule 3 of the principal Rules

4. Substituted for the expression "order sanctioning an exchange, sale or mortgage, or lease for a term exceeding five years shall, in addition to being communicated to the trustee or trustees and the persons having interest, if any, who appeared in the proceedings, be published in the manner laid down in Clauses (a) to (d) of Sub-rule (2) of Rule 2 for the publication of the notice" by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16.7.1997.

5. The words "The Commissioner" substituted for the words "the secretary on behalf of the Tamil Nadu Temple Administration Board" by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16.7.1997.

6. Substituted for the words city of Madras by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16.7.1997.

UTILISATION OF SURPLUS FUNDS RULES

[Published in Fort St. George Gazette, Part V, page 518, dated 23rd November, 1960]

[G.O. No. 4524, Revenue, dated 5th November, 1960]

S.R.O.No. A-580 of 1960. - In exercise of the powers conferred by Sec.36 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959), the Governor of Madras hereby makes the following rules:

RULES

1. These rules may be called "THE UTILIZATION OF SURPLUS FUNDS RULES."

2. The trustee or where there are two or more trustees, Chairman of the Board of Trustees of a religious institution may submit proposals for diversion of surplus funds to the ^{1a}[Commissioner] with a statement showing the following particulars:

[3. The trustee or where there are two or more trustees, the Chairman of the Board of Trustees of a religious institution may submit proposals for diversion of surplus funds to the Assistant Commissioner or the Deputy Commissioner with a statement showing the following particulars:

- (i) Receipts during the fasli year;
- (ii) Expenditure during the fasli year-
 - (a). Provision made under Sec.35 (1)
 - (b). Provision made under Sec.86 (2)

(iii) The surplus relating to the fasli year after making adequate provisions as required under Secs.86(2) and 35(1) of the Act.

(iv) The total accumulated surplus available till the end of the previous fasli with full particulars of investments and the dates of maturity of such investments.

(v) Particulars regarding the purposes for which any portion of the surplus may be diverted and the amount that may be so diverted for each such purpose.

¹[3. ²(1) The commissioner shall scrutinize the proposal for diversion of surplus fund, carefully, and shall provisionally decide the amount of surplus that may be diverted.]

(2) The ³[Commissioner] shall publish a notice in one of the leading local Tamil dailies containing the provisional decision of the Board together with the particulars, such as:-

- (a) The name or names of religious institutions whose surplus fund is to be diverted;
- (b) The purpose for which the surplus fund is to be diverted;
- (c) The amount proposed to be diverted and invite objections and suggestions and hold an enquiry to consider the objections and suggestions received thereon.]

1a. The words "Temple Administration Board" substituted for the words "Assistant Commissioner or the Deputy Commissioner: by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 13th December 1991. Again the words "The Commissioner" substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

1. Entire Rule 3 substituted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

2. Sub-rule (1) Substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1992.

3. In Sub-rule (2) the words "Commissioner" substituted for the word "Secretary" by *Ibid*.

RULE 3 OF PRINCIPAL RULES

3. The Assistant Commissioner or the Deputy Commissioner, as the case may be, shall scrutinize the statement carefully and submit the same with his remarks to the Commissioner. On receipt of the statement, the Commissioner may, after satisfying himself about the reasonableness of the proposed diversion, provisionally decide the amount of surplus that may be utilized. He shall then publish a notice in the Fort St. George Gazette Containing his provisional decision together with a statement containing relevant particulars including the name or names of religious institutions and clearly stating the amounts proposed to be utilized, and inviting objections and/or suggestions.

4. The notice shall specify a date, which shall not be less than thirty days from the date of its publication within which objections or suggestions may be sent. It shall also specify the date on which the inquiry will be held to consider the objections or suggestions.

5. A copy of the notice shall be ¹[Published]

(i) by affixture.-

(a) On the notice-board or front door of the religious institution concerned;

(b) On the notice-board of the office of the Assistant Commissioner or the Deputy Commissioner having jurisdiction over the area in which the religious institutions is situate and at the office of the Commissioner.

(c) On the notice board of the office of the panchayat, ²[Panchayat Union], municipal council, or the Corporation of Madras, in respect of an institution within the jurisdiction of a panchayat, a ²[Panchayat Union] a municipal council, or the Corporation of Madras, as the case may be; and

(d) If the religious institution is in a village, in the village chavadi and if there is no village chavadi, in some other public place in the village in which the religious institution is situate or in any other conspicuous place in that locality in which the religious institution is situate

³[(ii)By beat of tom-tom in the village where the religious institution is situate].

Provided that where the proposal relates to a specific endowment, the properties pertaining to which are not situate within the limits of the Corporation of Madras, of the municipality or the village in which the math or temple to which the specific endowment is attached is situate, the notice shall be published in the manner aforesaid also in the place or places where the properties pertaining to the specific endowment are situate.

The publication of the notice in the manner aforesaid shall be deemed to be sufficient intimation to person having interest.

⁴[6. After the enquiry into the objections and suggestions if any and after considering the connected records ⁵[Commissions either confirm or modify] or set aside its provisional decision.]

7. The appropriation of surplus amounts as may be sanctioned under Rule 6 shall be subject to the following restrictions and conditions: -

1. Substituted for the words "Published by affixture" by G.O. Ms. No. 3347, revenue, dated 23rd November, 1963.

2. Substituted for the words "District Board" by G.O. Ms. No. 3347, Revenue dated 23rd November, 1963.

3. Inserted by *Ibid*.

4. Entire Rule 6 Substituted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

5. In Rule 6, the expression, "The Commissioner shall either confirm or modify" substituted for the expression "The Secretary shall place the records of inquiry before the Tamil Nadu Temple Administration Board for its final decision either to confirm or modify" by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

¹[(i) The position of surplus amount sanctioned for appropriations shall be for any one or more of the purposes specified in Sub-sec.(1) of Sec.66 or for the performance of Hindu Marriages among Hindus who are poor or in needy circumstances as specified in Sec.36A or for making contribution towards any fund constituted for the purpose of:

(a) Feeding the poor; or

(b) Constructing any building, shed or centre for feeding the poor as specified in Sec.

36-B.

(ii) Appropriation of any portion of the accumulated surplus of the institution as specified in Sub-clause(i) or any portion of such surplus in the income of the institution for any years as special in Sub-clause(ii) of Secs.36, 36A, and 36B for any or more of the purposes specified above shall not exceed fifty per cent of the surplus income of the institution, or ten percent of the assessable income of the religious institution whichever is less.

(iii) The position of surplus amount sanctioned by the ²[Commissioner] shall be spent solely for the purpose specified in the order.

(iv) The incurring of expenditure of the portion of the surplus amount sanctioned under Secs.36, 36-A and 36-B shall be governed by the rules issued under Sec.116(2) (1) of the Act].

The Trustee or the Chairman of the board of Trustees as the case may be, shall be bound to carry out the orders of the ²[Commissioner].

The Trustee or the Chairman of the Board of Trustees as the case may be, shall ²[by the fifth of every month] submit to the ²[Commissioner] progress reports periodically until the surplus amount diverted is fully spent for the purpose for which it was sanctioned.

Clauses (i) to (iv) of Rule 7 of principal Rules.

(i) The surplus amount sanctioned for diversion shall be for any one or more of the purpose specified in Sub-section (1) of Section 66.

(ii) The surplus amount diverted shall be spent solely for the purpose specified in the order of the Commissioner, and the balance, after utilizing for the purpose for which it was sanctioned, shall be spent for another purpose specified in Sub-section (i) of Section 66 with the previous sanction of the Commissioner.

(iii) The surplus amount diverted shall be lodged separately as laid down in the rules issued under Section 116 (2) (xi) of the Act, and drawn and spent as and when required for the purpose specified in the order of the Commissioner.

(iv) The incurring of expenditure from out of this surplus amount diverted shall be governed by the rules issued under Section 116 (2) (x) of the Act.

8. A copy of the order of ²[Commissioner] shall be communicated to the Trustee or the Chairman of the Board of Trustees, as the case may be and to the Executive Officer or other officer referred to in the foregoing rules and to such other persons, who appeared at the inquiry to whom it is considered necessary to communicate the same and be published in the same manner as laid down in Rule 5.

The publication of the order in the manner aforesaid shall be deemed to be sufficient intimation to the persons having interest.

1. Clauses (i) to (iv) submitted for old clauses by G.O. Ms. No. 435, Commercial Taxes and Religious Endowments department, dated 16th March, 1988.

2. The expression Tamil Nadu Temple Administration Board substituted for the words "Commissioner" by G.O. Ms. No. 506 Commercial Taxes and Religious Endowment, dated 13th December, 1991. Again the words "The Commissioner" substituted by G.O. Ms.275, Commercial Taxes and Religious Endowment, dated 16th July, 1997.

NOTICE FOR ENFORCEMENT OF SERVICE OR CHARITY RULES, 1960.

[Published in Fort St. George Gazette, Part V, Page 521, dated 23rd November, 1960.]

[GO No. 4524, Revenue, dated 5th November, 1960]

S.R.O.No. 581 of 1960. - In exercise of the powers conferred under Sub-secs.(1) and (2) of Sec.38 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959), the Governor of Madras hereby makes the following rules.

RULES

1. These rules may be called "THE NOTICE FOR ENFORCEMENT OF SERVICE OR CHARITY RULES."

2. Notice of the application under Sec.38 (1) and (2) shall be sent by registered post, acknowledgement due, to the person in possession of the property on which the endowment is a charge or the person responsible in law for the performance of the service or charity as the case may be. If the Commissioner or ¹[Joint Commissioner or Deputy Commissioner, as the case may be], is satisfied that the person to whom a notice is sent willfully absents himself from his residence or refuses to receive the notice, he may order that the notice shall be affixed on the front door or other conspicuous place in his usual place of residence. If the person has changed his residence, the notice shall be sent to the changed address, if it is known, or a copy of the notice shall be affixed in the front door or other conspicuous place of the last known residence. On such affixture, he may declare that there has been sufficient service.

THE ENFRANCHISEMENT OF DEVADASI INAMS RULES, 1960.

*[Published in the Fort St. George Gazette, supplement, Part 1, page 80,
dated 24th February, 1960.]*

[G.O. No. 693, Revenue, dated 6th February, 1960.]

S.R.O. No. A-1202 of 1960. - In exercise of the powers conferred by Sec.116 read with Sec.40 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959), the Governor of Madras makes the following rules.

RULES.

1. These rules may be called "THE ENFRANCHISEMENT OF DEVADASI INAMS RULES, 1960."

2. In these rules, Act means the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959).

3. The quit-rent to be imposed under Sub-sec.(1) of Sec.40 of the Act shall be the current assessment on the land, less any quit-rent, *jodi* or excess charge already payable thereon. The quit-rent so imposed shall not be liable to revision.

Explanation. - In the case of proprietary villages, the current assessment on similar lands in the neighboring ryotwari villages shall be taken to be the current assessment on the main land for enfranchisement.

4. As soon as may be after the publication of these rules, the District Collector shall, by a notification in the District Gazette, direct that the trustee of every temple in the district as well as the devadasi or other inamdar of land granted for a service auxiliary to the service to be performed by a devadasi concerned shall send to him within such time as may be specified in the notification, a statement to the form annexed to these rules, of the devadasi inams or other inams

1. Substituted for the words "Deputy Commissioner by G.O. Ms. No. 200, CT & CE dated, 30th May, 1996.

mentioned in Sub-sec.(8) of Sec.40 of the Act held in connection with the temple which should be enfranchised under the Act.

Revised Rules 5 to 9 :

5. The Government shall direct the District Collector to make such inquiry as he may think fit to ascertain what inams in the District should be enfranchised by Government after the Act, and insert such information relating to the said inams.

6. (1). On receipt of statement under Rule 4, the District Collector shall,

(a) if he is satisfied that the statement is in conformity with the provisions of the Act, and these rules a date for the inquiry which shall not be less than thirty days from the date of receipt of the statement; and

(2) in cases failing under clause (b) of Sub-rule (1):

(a) If the statement is not represented within the period specified in that behalf of or if it is so represented within such period but the District Collector is not satisfied that it has been brought in conformity with the provisions of the Act and these rules, the District Collector shall fix a date of representation of the statement.

7. (1) In cases where the statement has been represented under Clause (a) of Rules 6(1) and Clause (b) of Rule 6 (2), a notice for enquiry in Form 'B' annexed to these rules accompanied by a copy of the statement shall be served in the manner specified in Sub-rule (2)

(2) Such notice shall be served:

(a) On the Commissioner by a copy being sent by registered post with acknowledgement due; and

(b) On the trustee and the Devadasi or the inamdar as the case may be, by delivery of copy of such person or some adult male member of his or her family, at his or her family, at his or her place of residence, or to the authorized agent or such persons.

(3) Such notice shall also be published-

(a) On the notice-boards of the offices of the Assistant Commissioner, the Tahsildar of the taluk concerned and the District Collector.

(b) On the notice-board or the front door of the temple concerned

(c) On the notice-board of the office of the Municipal Council concerned or the Corporation of Chennai or the village Chavadi as the case may be and if there is no village Chavadi affixed in some other public place in the village in which the temples concerned is situate;

(d) In another conspicuous place in the locality which may be selected by the District Collector at his discretion.

The Notice shall also be published in the District Gazette, if the temple is situated in the mofussil, or the Tamil Nadu Government Gazette, if it is in the city of Chennai.

(4) In cases where no statement has been presented under Rule 4, the District Collector shall, if he is satisfied that the Devadasi inam or other inam requires enfranchisement, cause a notice for enquiry in Form 'C' annexed to these rules to be served and published in the manner specified respectively in Sub-rules (2) and (3). The said notice shall be accompanied by a statement in Form 'D' annexed to these rules which shall be prepared by the District Collector from the information available with him.

8. If the District Collector is satisfied after the enquiry referred to in Rule 7 of that the inam should be enfranchised by Government, he should forward the papers to Government, with full particulars for enfranchisement.

9. On receipt of the report with full particulars of the inam for enfranchisement from the District Collector referred to in Rule 8, the Government shall enfranchise the said lands from the condition of service by the imposition of quit-rent and direct the Inam Commissioner to issue suitable title deeds into the forms annexed hereto. Any title deed that the Inam Commissioner may have previously issued in respect of such grant shall be deemed to have been cancelled from the date on which a fresh title deed is issued and has taken effect.

The Government shall direct the District Collector who shall also make such inquiry as he may think fit to ascertain what inams in the district should be enfranchised by the Government under the Act and collect such information relating to the said inams as he may think necessary:

(a) On receipt of a statement under Rule 4, if the District Collector is satisfied that the statement by the trustee of any temple or the devadasi or inamdar is correct and complete, he may take steps for the enfranchisement of the inam on the basis of the particulars contained in such statement.

(b) If the District Collector considers that the statement sent by the trustee or devadasi or inamdar is inaccurate or incomplete or if no statement is received within the time specified in the notification issued under Rule 3, he may take steps for the enfranchisement of the inam on the basis of the information collected by him under this Rule:

Provided that in each case falling under this Sub-rule, the District Collector shall give notice in writing of the proposal for enfranchisement to the trustee and devadasi or inamdar concerned and shall consider any representations which they may make within the period specified in such notice.

In the case of grants dealt with by the Inam Commissioner, the District Collector shall submit proposal for their enfranchisement to the Inam Commissioner in such form as he may direct. The Inam Commissioner shall then pass orders for their enfranchisement under Clause (a) of Sub-section (x) of Sec.40 of the Act. Any title-deed that the Inam Commissioner may have previously issued in respect of any such grant shall thereupon be deemed to be cancelled and fresh title-deed shall be issued by him. The enfranchisement shall in each case take effect from the date of the issue of such fresh title-deed by the Inam Commissioner.

In the case of grants not dealt with by the Inam Commissioner the District Collector shall proceed to enfranchise them himself. He shall issue an order in each case freeing the grant from the condition of service and fixing the date from which the order shall take effect.

10. The quit-rent imposed under Sub-clause (i) of Clause (a) of Sub-sec.(1) of Sec.40 of the Act shall be paid to the temple from the revenue collections of the village as a beriz deduction.

11. (1) The order of the District Collector under Sec.40(2) shall be published by affixture-

(a) On the notice-boards of the offices of the Assistant Commissioner, the Tahsildar and the District Collector concerned;

(b) On the notice-board or the front door of the temple concerned;

(c) On the notice-board of the office of the Municipal Council including the Corporation of Chennai, or the village Chavadi and if there is no village Chavadi, in some other public place in the village in which the temple concerned is situate;

(d) In another conspicuous place in the locality which may be selected by the District Collector in his discretion.

(2) The order shall also be published in the District Gazette in the language of the district in the case of temples situated in the mofussil and in the Tamil Nadu Government Gazette, in the case of temples situated in the City of Chennai.

FORM REFERRED TO IN RULE 4.

Statement showing the particulars to be furnished by temple trustees and devadasis in respect of the devadasis inams to be enfranchised under the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959).

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Village in which the land lies	Survey number or paimash number or description serving to identify the land.	Description of the land – dry, wet, or garden, or house-site	Extent	Name of owner or occupier and names of persons owning interest in the land by lease mortgage, etc.	Name of devadasi or other inamdars who rendered service in respect of this land	Whether the interest of the devadasi or other inamdar is of the nature described in Sub-sec.(1) (or) Sub- sec.(2) of Sec.(40)(a)(i) or (a)(ii) or (a)(iii)	Remarks on the origin and nature of the grant and whether any original title deeds or relevant documents are available

ACS

Certified that the above is a full and true statement of the lands held, subject to the performance of devadasi or other auxiliary service in this temple and I have satisfied myself that there are no other lands of such a nature.

Trustee

Devadasi or other Inamdar.

FORMS OF TITLE-DEEDS TO BE ISSUED UNDER RULE 7.

Form of the title-deed to be issued when the devadasi is the owner of the land.

Title-deed granted to (the devadasi to be named).

By order of the Governor of Madras, I acknowledge your title to an inam consisting of the right to a portion of the Government revenue, on land measuring acres of dry, acres of wet and acres of garden (be the same a little more or less) originally granted for service and situated in the village of in the estate of in the taluk of in the district of

2. This inam, being held for shall now be deemed freed of such service, but shall henceforth be subject to take payment of an annual quit-rent of rupees exclusively of rupees already payable as jodi or quit-rent to the Government and rupees payable as jodi to the proprietor which quit-rent is hereby imposed upon the inam in commutation both of the said service and of the reversionary interest possessed by the Government in the main. The inam is now confirmed to you, your representatives and assigns to hold or dispose of, which you or they think proper, subject only to the payment of the above mentioned quit-rent and jodi and to the provisions of the next clause.

3. The right of the Government to all minerals, if any, in the land referred to in clause above is hereby expressly reserved to the Government and the revenue referred to in that clause represents only the right of the Government to a share in the surface products of such land.

Madras

Date 19. inam commissioner,-

Form of title-deed to be issued when the devadasi is not the owner of the land.

Title-deed granted to (the devadasi to be named).

1. By order of the Governor of Madras, I acknowledge your title to an inam consisting of the right to a portion of the Government revenue on land measuring
acres of dry, acres of wet and

acres of garden (be the same a little more or less) and situated in the village of in the estate of
in the taluk of in the district of

2. This inam which is at present subject to a jodi or quit-rent of rupees per annum payable to the Government and a jodi of rupees per annum payable to the proprietor is confirmed to you subject to the payment aforesaid to the Government and the proprietor during your lifetime and on your death to the temple of situated in the

Village of in the estate of in the taluk of
in the district of so long as it is maintained.

The inam

will lapsed to the Government when the temple ceases to be maintained.

3. The right of Government to all minerals, if any, in the lands referred to in clause 1 above is hereby expressly reserved to Government and the revenue referred to in that clause represents only the right of Government to a share in the surface products of such land/

Madras,

Dated 19 inam Commissioner.

Form of title-deed to be issued when the devadasi is not the owner of the land.

No.

Title-deed granted to ,the manager for the
time being of
the temple
of

(1) By order of the Governor of Madras, I acknowledge your title to an inam consisting of the right to a portion of the Government revenue on land measuring
acres of dry acres of wet and acres of garden (be the same a
little more or less) and situated in the village of in the estate of
in the taluk of in the district of

(2) This inam which is at present subject to a jodi or quit-rent of rupees
per annum payable to the Government and a jodi of rupees per
annum payable to the proprietor and which is confirmed subject to the payments aforesaid to the
Government and the proprietor to (the devadasi to be named) during her lifetime, is after her
death confirmed to the temple of

situated in the Village of in the estate of in the
taluk of in the district of so long as it is
maintained. The main will lapse to the Government when the temple ceases to be maintained.

(3) The right of the Government to all minerals, if any, in the land referred to in clause 1 above is hereby expressly reserved to the Government and the revenue referred to in that clause represents only the right of the Government to a share in the surface products of such land.

Madras,

Dated

19 ,

Inam Commissioner.

EXCHANGE, SALES, ETC., OF INAM LANDS RULES, 1960.

[Published in the Fort St. George Gazette, supplement, part I, pages 76 and 77, dated, 17th February, 1960.]

[G.O. No.662, Revenue. 5th February, 1960]

S.R.O.No.A-1033 of 1960. - In exercise of the powers conferred by Sub-sec.(1) of Sec.116 read with Sub-sec.(1) of Sec.41 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act, XXII of 1959), the Governor of Madras makes the following rules: -

RULES

1. These rules may be called the "EXCHANGE, SALES, ETC., OF INAM LAND RULES, 1960".

2. Notice of the particulars relating to the proposal for the exchange, sale or mortgage or lease for a term exceeding five years, of the whole or any portion of any inam granted for the support or maintenance of a religious institution, or for the performance of a charity or service connected therewith or any other religious charity, and made, confirmed, or recognized by the Government shall be published -

(i) in the language of the locality in a daily newspaper in circulation in the locality where the math or temple concerned is situate:

Provided that where the value of the property involved in the proposed transaction is less than Rs.300, the requirement of publications of the notice in a daily newspaper may be dispensed with, at the discretion of the Government; and,

(ii) by affixture -

(a) on the notice-board or the front door of the math or temple concerned,

(b) on the notice-board of the office of the municipal council including the Corporation of Madras or village chavadi in the village or villages in which the property proposed to be dealt with is situate, and if there is no village chavadi, in a conspicuous place in the said village or villages; and

(c) on the notice-board of the offices of the Commissioner and of the Assistant Commissioner having jurisdiction over the area in which the math or temple concerned is situate.

(iii) by beat of tom-tom in a busy central place in the locality in which the property is situate.

3. When the proposal related to an inam granted for service in a religious institution and is made by an office-holder or servant of the institutions, notice shall be sent to the trustee of the

institution by registered post, acknowledgement due. Notice shall also be given to the person other than the trustee, if he is actually in possession of the property.

4. The notice shall invite objections and suggestions with respect to the proposals and fix the time within which they shall be submitted. They shall be considered after inquiry as may be necessary.

5. While according sanction, the Government may impose such conditions and give such directions as they may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period and other relevant factors.

6. After the final orders of the Government on a proposal, another notice shall be given before actually executing the decision. '[A copy of the order of the Government sanctioning an exchange, sale, or mortgage, or lease for a period exceeding five years shall in addition to being communicated to the trustee and persons having interest, if any, who appeared in the proceedings, be published by affixture:

(a) on the notice-board of the office of the Commissioner and the Assistant Commissioner having jurisdiction over the area in which the religious institutions concerned is situate;

(b) on the notice-board or the front door of the religious institutions concerned;

(c) on the notice-board of the office of the Municipal Council, or the Corporation of Madras or the village chavadi and if there is no village chavadi, in some other public place in the village in which the religious institutions concerned is situate and on the notice-board of the panchayat board;

(d) in a newspaper of the language of the locality where the religious institutions is situate:

Provided that where the value of the property involved is less than Rs.300 the requirement of publications may be dispensed with at the discretion of the Government; and

(e) Where the religious institutions is in one village and property to be exchanged, sold, or mortgaged, or leased for a period exceeding five years in another village, a copy of the order of the Government shall be affixed on the notice-board of the village chavadi of the village in which the property is situated and, if there is no village chavadi, in some other public place in the village in question.]

RESUMPTION AND REGRANT OF INAMS RULES, 1960.

*[Published in the Fort St. George Gazette, supplement, part I, page 204,
dated 11th May, 1960.]*

[G.O. No.864, Revenue, dated 15th February, 1960.]

S.R.O.No. A-3257 of 1960. - In exercise of the powers conferred by Sec.116 read with Sub-sec.(2) of Sec.41 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Act XXII of 1959), the Governor of Madras makes the following rules.

RULES.

1. These rules may be called "THE RESUMPTION AND REGRANT OF INAMS RULES, 1960."

2. In these rules, unless there is anything repugnant in the subject or context -

(i) "Clause" means a clause of Sub-sec.(2) of Sec.4 of the Act

(ii) Commissioner means the Commissioner appointed under Sec.9 of the Act.

3. **Form of application and presentation thereof.** - Every application under Clause(a) if it shall be in Form A annexed to these rules and shall be presented to the Collector in person or by counsel.

4. **Copies to accompany application.** - The application shall be accompanied by as many copies thereof as are required for service on the Commissioner and each of the persons mentioned in clause (b).

5. **Deed of alienation, if any, to accompany application.** - If the application is made on the ground specified in Sub-clause(i) of Clause (a) it shall be accompanied by an authenticated copy of the deed, if any, under which the inam or portion thereof was gifted, exchanged, sold, mortgaged, or leased.

6. **Procedure of Collector.** - (1) On receipt of an application under Clause(a), the Collector shall -

(a) if he is satisfied that the application is in conformity with the provisions of the Act and these rules, fix a date for the inquiry which shall not be less than thirty days from the date of the application; and

(b) if he is not so satisfied, return the application to the applicant for being brought into such conformity and re-presented within a reasonable period to be specified, which may, however, be extended at the discretion of the Collector.

(2) In cases falling under Clause(b) of Sub-rule(i) -

(a) If the application is not re-presented within the period specified in that behalf or if it is so re-presented within such period but the Collector is not satisfied that it has been brought in to conformity with the provisions of the Act and these rules, the Collector may reject the application; and

(b) If the application is re-presented within the period aforesaid and the Collector is satisfied that it has been brought into conformity with the provisions of the Act and these rules, the Collector shall fix a date for the inquiry which shall not be less than thirty days from the date of representation of the application.

7. **Service and publication of notice of application.** - (1) In cases where an application has been presented under Clause(a), the notice referred to in Clause(b) shall be in Form 'B' annexed to these rules, and shall be accompanied by a copy of the application and shall be served in the manner specified in Sub-rule(3).

(2) In cases where the Collector acts on his own motion under clause (a), the notice referred to in clause (b) shall be in Form B-1 annexed to these rules and shall be served in the manner specified in Sub-rule(3).

(3) Services of such notice shall be effected -

(a) in the case of the Commissioner by a copy being sent by registered post to the Commissioner; and

(b) in the case of each of the other persons mentioned in clause (b), by delivery of copy to such person or some adult male member of his family at his usual place of residence or to the authorized agent of such persons.

(4) Such notice shall be published -

(a) on the notice-board of the office of the Assistant Commissioner and Tahsildar and Collector concerned;

(b) on the notice-board or the front door of the math or temple concerned;

(c) on the notice-board of the office of the municipal council including the Corporation of Madras or the village chavadi and if there is no village chavadi in some other public place in the village in which the temple concerned is situate;

(d) In another conspicuous place in the locality which may be selected by the Collector in his discretion.

The notice shall also be published in the District Gazette in the case of math or temple situated in the moffussil and in the Tamil Nadu Government Gazette in the case of math or temple situated in the City of Chennai.

8. Procedure at inquiry. - At the inquiry under Clause (b), the Collector shall hear and record the substance of, the evidence produced by the parties concerned on such of the following points as are relevant, namely

(i) Whether the inam was or was not made, confirmed or recognized by the Government;

(ii) the purpose for which the inam was granted;

(iii) whether the inam consists of both the melwaram and the kudiwaram or only of the melwaram;

(iv) whether the inam or any portion thereof was or was not alienated by exchange, gift, sale, mortgage, or lease for a term exceeding five years;

(v) what the custom or usage concerning the performance of the charity or service as the case may be is;

(vi) whether there has been any failure to perform, or to make the necessary arrangements for performing the charity or service in accordance with such custom or usage;

(vii) in case a portion of the inam has been alienated or is in the enjoyment of any person or persons who has or have failed to perform or make the necessary arrangements for performing his or their part of the charity or service for performing which the inam was granted, whether that portion can be separately sub-divided.

(viii) whether the math or temple has ceased to exist; and

(ix) whether the charity or service has become impossible of performance.

9. Publication of order of resumption. - A copy of every order of resumption passed under Clause (a) shall be published in the same manner as in the case of notice published under Rule 7 (4) above.

10. Time for and presentation of appeals. - (1) The time allowed to a party for preferring an appeal to the District Collector against any order passed by the Collector under Clause (a) shall be sixty days from the date of receipt of the order by the party after excluding the time, if any, taken by him for obtaining an authenticated copy of the order.

(2) Such appeal shall be presented to the District Collector in person or by counsel and shall be accompanied-

(a) by an authenticated copy of the order appealed against; and

(b) by as many copies of the memorandum of appeal as are required for service on each of the persons and bodies mentioned in Clause (b)

11. Procedure in appeal - (1) On receipt of any such appeal, the District Collector shall fix a date for the inquiry and give the notice referred to in Sub-clause(1) of the Clause (d) in Form C, annexed to these rules. Every such notice shall be accompanied by a copy of the memorandum of appeal. The notice shall be served in the manner prescribed in Sub-rule (3) of Rule 7. At the inquiry, the District Collector shall peruse the evidence recorded by the Collector under Rule 8, hear the parties who may appear before him and pass an order as required by Sub-clause (i) of Clause (d).

(2) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, before the District Collector. But if it is found that -

(a) the Collector has refused to admit evidence which ought to have been admitted, or

(b) the District Collector required any document to be produced or any witness to be examined to enable him to pronounce judgment, or

(c) there is any other substantial cause, the District Collector may allow such evidence or document to be produced or such witness to be examined.

Wherever additional evidence is allowed to be produced by the District Collector under the foregoing provisions, he shall record the reason for its admission.

12. Application for execution of order of re-grant. - Any application for the execution of an order passed under Clause (f) re-granting any inam or part of an inam, shall be presented to the Collector in Form D annexed to these rules within one year from the date of the order, if no suit is filed in a Civil Court under the *proviso* to sub-clause (ii) of clause (d) and within sixty days from the date of the disposal of the suit, if one is filed.

The Collector may, however, for reasons to be recorded in writing, admit an application presented after the period prescribed under this rule.

Explanation. - No suit shall be deemed to be "disposed of" within the meaning of this rule.

(a) Until the time for preferring an appeal or a second appeal from the decree passed by the Court of first instance or by the First Appellate Court, as the case may be, has expired, or

(b) if an appeal or a second appeal has been preferred within such time, until such appeal or second appeal has been finally decided.

13. Manner of execution of order of re-grant.- An order under Clause (f) re-granting any inam or part of an inam, shall be executed in the following manner:-

(i) where the inam or part and the re-grant relate to the melwaram only, the Collector shall send an order to the Tahsildar of the taluk concerned, to pay the actual net assessment collected on the resumed inam or part, to the math or temple concerned or to such religious, educational or charitable institution recommended by the Commissioner, as the case may be, by

way of *beriz* deduction from the village collections during the kist season and to effect the necessary changes in the village and taluk accounts and;

(ii) where the inam or part and re-grant comprise both the melwaram and the kudiwaram, the Collector shall issue a warrant to the Revenue Inspector of the *firka* in which the land is situated, authorizing him to take possession of the land and deliver it to the math or temple concerned or to such religious, educational or charitable institutions recommended by the Commissioner, as the case may be, after removing, if need be, any person bound by the order of re-grant who refuses to vacate the land.

14. Issue of the title deeds where inam comprises both warams. - In the case referred to in Clause(ii) of Rule 13, the Collector shall, after delivering possession of the land to the math, temple or other institutions, as the case may be, send proposals to the inam Commissioner, through the District Collector, for issuing the necessary title in its favour.

15. Assessment to be levied on resumed inam consisting only of melwaram. - Where the inam relates to the melwaram only, the assessment levied on the resumed inam shall be -

(a) in case the inam is situated in a ryotwari village, the current assessment levied on similar lands in the vicinity, and

(b) in case the inam is situated in a proprietary village, the current assessment levied on similar lands in the ryotwari village in the neighbourhood.

ANNEXURE.

FORM A.

(See Rule 3.)

Application under Sec.41(2) of the Madras Hindu Religious and Charitable Endowments Act, 1959.

1. Name, description, age, and place of residence of the applicant.
2. If the applicant is not the trustee of the math or temple, or the Commissioner, what interest he has in the math or temple and whether he has obtained the consent of such trustee or Commissioner (a copy of the letter according such consent shall be appended hereto.)
3. Name, description, age and place of residence of:
 - (a) the inamdar or where only a part of the inam is affected, each of the holders for the several parts of the inam, and
 - (b) the alienee.
4. Whether the inam has been reorganized by the Government, if so, the date and number of the title deed issued by the inam Commissioner should be given.
5. A concise statement of the conditions and tenure of the grant.
6. Reasons for resuming the inam

Certified that the particulars furnished herein are true to the best of my knowledge and belief.

Signature of the applicant.

FORM B.

[See Rule 7 (i)]

*Notice under Sec.41(2)(b) of the Madras Hindu
Religious and Charitable Endowments Act, 1959.*

In the Court of _____ at _____ district, _____ no.
of 19 _____ village,
(SUBJECT.- Inam – Religious / Charitable _____ taluk,
T.D. No. _____ – Resumption.)

To

(Name description and place of residence.)

WHEREAS _____ has presented an application to this Court
praying for the resumption of the inam / a portion of the inam described below on account of _____

Take notice that if you have any cause to show why the inam/ a portion of the inam
should not be resumed. You should appear in person or by a counsel, duly instructed with proofs,
in this Court on _____

_____ the day of, _____, when the said application
will be heard

and disposed of, failing which the said application will be heard and disposed of *ex-parte*
and it will be presumed that you consent to the resumption of the inam, a portion of the inam.

Given under my hand and the seal of the Court, this day of _____ 19

SCHEDULE

(Description of the inam.)

FORM B-1

[See Rule 7 (2).]

*Notice under Sec.41(2)(b) of the Madras Hindu Religious
and Charitable Endowments Act, 1959.*

In the Court of _____ of _____ district.
No. of 19 _____
[SUBJECT.- Inam – No. _____ village-T.D.
_____ taluk
Resumption.]

To

(Name, description and place of residence.)

WHEREAS I have reason to believe that the whole of the inam/a portion of the inam
described below should be resumed on account.

Take notice that if you have any cause to show why the inam/a portion of the inam
should not be resumed, you should appear in person or by a counsel duly instructed with proof, in
this court of the _____

_____ day of _____ when the aforesaid

matter will be

heard and disposed of, failing which the matter will be heard and disposed of *ex-parte*,
and it will be presumed that you consent to the resumption of the inam or portion of the inam.

Given under my hand and the seal of the Court, this day of _____ 19

District Collector.

SCHEDULE.*(Description of the inam.)***Form C.***[See Rule 11 (1)]**Notice under section 41 (2) of the Madras Hindu Religious and Charitable Endowments Act, 1959*[SUBJECT. - Inam – Religious/Charitable -
T.D.No-taluk -
–Resumption.]

Appeal from the

of the Court of

dated

To

(Name, description, and place of residence.)

Take notice that an appeal from the order of _____ in this case has been presented
by _____ and registered in this Court and that the _____ day of _____ 19. _____ has been fixed
by this Court for the hearing of this appeal. If no appearance is made by yourself in person or by
your counsel, the appeal will be heard and decided in your absence.
Given under my hand and the seal of the Court, this day of _____ 19....

District Collector.

FORM D.*[See Rule 12.]**Application for execution of the order of re-grant of the inam under Sec.41(2) of the Madras Hindu Religious and Charitable Endowments Act, 1959.*

1. Name, description, age and place of residence of the applicant.
2. Number and date of the order for the execution of which the application is made.
3. Whether an appeal has been preferred to the District Collector or a suit has been filed in the Civil Court against the order. If so, with what result.
4. Name, description, age and place of residence of each of the persons against whom the order is sought to be executed.
5. Mode in which the assistance of the Collector is required, whether by delivery of land or recovery of money allowance.

THE RELIGIOUS INSTITUTIONS' CUSTODY OF JEWELS, VALUABLES AND DOCUMENTS, AND DISPOSAL RULES, 1961.

*[Published in the Fort St. George Gazette, Part V, Pages 1073 to 1077,
dated 25th October, 1961.]*

[G.O. No.4055, Revenue, dated 23rd February, 1961.]

S.R.O.No. A. 1038 and 1961. - In exercise of powers conferred by Clause(xii) of Sub-sec.(2) of Sec.116, read with Sec.42 of the Madras Hindu Religious And Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following Rules.

RULES

1. Short Title.-These rules may be called "THE RELIGIOUS INSTITUTIONS' CUSTODY OF JEWELS, VALUABLES AND DOCUMENTS, AND DISPOSAL RULES."

2. Maintenance of register, etc.- The trustee of every religious institution shall maintain a register in such form as shall be specified by the commissioner. It shall contain lists of the Jewels, the gold vessels, the silver vessels and other valuables. The lists shall give a correct description and full particulars of the jewels and other valuables and also gems, if any, in the jewels. The estimated value of jewels and the weight of the jewels and valuables other than the vahanams, shall be stated in the respective lists where new jewels or valuables are purchased or otherwise acquired, entries shall be made in the said register then and there.

3. Arrangements for the safe custody of jewels and valuables.- The trustee shall be responsible for making proper arrangements for the safe custody of the Jewels and valuables. He shall provide iron safe, boxes or other receptacles with locking arrangements, wherever necessary strong room shall be maintained for keeping the iron safe, boxes or other receptacles. The Mandapams, halls or rooms, in which gold or silver vahanams or palanquins are kept shall have suitable locking arrangements, and the vahanams shall be covered by dirt-proof sheets when not in use.

4. Custody of Jewels and valuables where there is no Executive Officer.- Where the institution has no Executive Officer, the Jewels and valuables shall be kept in the custody of the trustee, if the number, of the trustee is one, and in the joint custody of the Chairman of the Board of Trustees and such other trustee as may be decided upon by all the trustees if the number of trustee exceeds one.

5. Custody of jewels and valuables where there is an Executive Officer.- Where the institution has an Executive Officer, Jewels and valuables shall be in the joint custody of the Executive Officer and the trustee or if the number of trustee exceeds one, chairman of the Board of Trustees.

6. Custody of double lock system.- Where Jewels and valuables are in joint custody, cash of the safe, receptacles in which they are kept and where there is a strong room such room also, shall be kept two locks of different pattern and the key of one of the locks shall be in the custody of one of the persons having a joint custody and that of the other lock shall be in the custody of the other person.

7. Taking out jewel or valuable out of the receptacle or strong room.- Whenever any jewel or valuable in joint custody has to be taken out of its receptacle or the strong room, it shall be done in the presence of the person having joint custody or their duly authorized agents.

8. Procedure to be followed when jewels and valuables are to be entrusted to an office-holder for use during festivals.- Jewels and valuables which are not used daily but are

used only during festivals on any special occasion may when they are required for use, be entrusted to an office-holder after obtaining his written acknowledgement in a register specially kept for the purpose. A written undertaking shall also be taken from the office-holder that he will indemnify the institution against loss or damage of the jewel or valuable. The acknowledgement and the written undertaking shall be in the forms contained in the annexure to these rules. The particulars regarding the jewels and valuables taken out and their serial number in the register maintained under Rule 2 and the duration of the period for which the custody is entrusted to the office-holder, shall also be entered in the said register. If the jewel or valuable so entrusted is required for more than one day, the trustee shall provide facilities of the office-holder to keep the jewel or valuable in safety. As soon as the festival or special occasion or the period for which the jewel or valuable is taken, whichever is earlier, is over, the office-holder shall return the jewel or valuable to the person or persons entitled to possession thereof. Simultaneously with return, a record as to such return shall be made in the register maintained under Rule 2.

9. Entrusting jewels and valuables to an archaka or other office-holder:-

Notwithstanding the provisions contained in Rules 4 to 6, jewels and valuables required for use everyday may on the responsibility of the trustee, be entrusted to an archaka or other office-holder for custody. Such archaka or other office-holder shall be provided with necessary safe receptacles, with locking arrangements for keeping the jewels and valuables. The trustee shall in such case obtain a written acknowledgement in the register referred to in Rule 7 from the archaka or other office-holder in token of receipt of the jewels and valuables and a written *muchilika* or bond undertaking to be responsible for their safety, to indemnify the institution for loss or damage arising from his neglect or misconduct and to produce them for check whenever called upon to do so. The trustee shall make periodical verification of the jewels and valuables entrusted under this rule. But the Executive Officer, if any, or the Chairman of the Board of Trustees in consultation with trustees, may provide additional safeguards, that may be required for ensuring such safe custody in the interest of administration subject to such conditions as the Commissioner may by general or special order direct, so that responsibility could be shared by other office holders or archakas entering the garbagraham when the jewels are in actual use.

10. Procedure to be followed if possession of jewels or valuables is vested in one or more office-holders under any scheme or any decree of Court:- Where the right of possession of any jewel or valuable is vested under any scheme or any decree or order of Court of any custom or usage, in one or more office-holder or servants:-

(a) the trustee and if the number of trustees exceeds one, the Chairman of the Board of Trustees and the Executive Officer, if any, shall have the right to custody of the key of one of the locks of each of the safe receptacles in which the jewels or valuables are kept and of the key of one of the locks of the door of the strong room, if any;

(b) the provisions of Rules 7 to 9 shall be applicable; and

(c) the [Commissioner] shall have power to order the taking of such security as he may deem fit from any office-holder or servant who may be entrusted with any jewel or valuable or issue such directions as he may deem fit, according as the circumstances of the institution may require.

1. In Rule 10, and Rule 11, for the words "Commissioner" the words "Tamil Nadu Temple Administration Board" substituted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments Department dated, 13th December 1991; Again the words "the Commissioner" substituted by G.O. MO. No.275, Commercial Taxes and Religious Endowments, dated, 16th July, 1997.

¹[11. **Trustee shall not repair, alter etc., any jewel or valuable.-** A trustee shall not repair, alter, replace, sell, gift away, pledge or destroy any jewels, vahanams, or other valuables in the temple, without the prior permission of the ¹[Commissioner.]

12. ²[**The Commissioner**] to issue instructions for the preservation of articles:- ¹[The Commissioner] shall issue such instructions to the trustees as may be necessary; for the preservation or otherwise of the articles mentioned in the previous rules and the trustee shall be bound to carry out such instructions.

13. **Trustee shall not melt any jewel or valuable.-** A trustee shall not without obtaining the previous sanction of the competent authority, melt, any jewels or valuables in the temple including kanikkai articles in gold and silver and the competent authority may issue instructions as may be necessary for the melting and the trustee shall be bound to carry them out.

14. **Trustee shall not make any new jewel or vahanam.-** A trustee shall not, without obtaining the previous sanction of the competent authority, make any new jewel or vahanam for the use of the temple.

15. **Custody of documents.-** Documents relating to the title of a religious institution, to properties and securities such as Government promissory notes stock certificates, debentures, post office cash certificates, National Savings Certificates, and fixed deposit receipts of banks obtained by the institution and mortgage deeds, bonds and promissory notes in favour of the institution shall be-

(a) where the institution has more than one trustee and no Executive Officer, in the custody of the chairman of the Board of Trustees;

(b) where the institution has more than one trustee and an Executive Officer, in the joint custody, under double lock, of the Chairman of the Board of Trustees and Executive Officer;

(c) where the institution has only one trustee and an Executive Officer, in the joint custody, under double lock, of the trustee and the Executive Officer; and

(d) where the institution has only one trustee and no Executive Officer, in the custody of the trustee.

16. **Documents in joint custody taken out for reference:-** When any document referred to in Rule 15 which is in joint custody, is required for reference, encashment, or other purpose, it shall be taken out in the presence of the persons having such custody, or other authorized agents and a record thereof shall be made in a register (containing details of documents) kept for the purpose. When the document is restored to joint custody, an entry thereof shall be made in the register.

17. **Responsibility of the person having joint custody:-** The persons having joint custody shall be responsible for taking timely action for the recovery of any moneys or properties recoverable under the securities and if there is default in taking timely action owing to their neglect or other cause, they shall be responsible for the loss, if any, to the institutions.

1. Rule 11 substituted by G.O. Ms. No. 1361, Revenue dated 5th April, 1963. Published in Fort St. George Gazette Part V Page 460. dated 24th April, 1963.

2. In Rule 12, for the words "The Commissioner" the words "Secretary to the Tamil Nadu Temple Administration Board" Substituted by G.O. Ms. No.506, Commercial Taxes and Religious Endowments dated 13th December, 1991. Again the words "the Commissioner" Substituted by G.O. Ms. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1992.

18. Rules 16 and 17 to apply to documents in the safe custody of the Chairman:- The provision in Rules 16 and 17 will apply *mutatis mutandis* in respect of documents in the sole custody of the chairman of the Board of Trustees.

19. Custody of documents other than those referred to in Rule 15:- Documents other than those referred to in Rule 15 shall be in the custody of such officer as the trustee of the Chairman of the Board of Trustees, as the case may be, may choose and if the institution has an Executive Officer, in the custody of such Executive Officer.

20. Rules 15 to 19 shall be subject to any scheme settled.- The provisions of Rules 15 to 19 shall be subject to the provisions of any scheme settled or deemed to be settled under the said Act.

¹[**21.(1)** All the jewels and valuables of religious institutions shall be appraised by a team of officers consisting of a verification officer in the cadre of Deputy Commissioner, a Gold-cum-Gem specialist and a Technical Assistant and they shall have the responsibility of appraisal wherein of all the temples in their respective jurisdiction.

(2) The verification officer shall submit a report in detail about the Jewels and valuables appraised, and in it specify:

- (a) Whether the institution is listed or non-listed;
- (b) the person who was in management;
- (c) the person or persons with whom the jewels and valuables are entrusted for custody and the security furnished by them;
- (d) the name of officer who had undertaken the appraisal;
- (e) the value of the Jewels and valuables missing, if any, and the person or persons responsible, for the loss;
- (f) the fitness of each Jewel and valuable appraised and its value; and
- (g) abstract of weights and value of gold, silver and gems appraised.

(3) Once in a year, after the first appraisal is made, annual supplementary verification of gold, silver articles, etc, received by various institutions by means of kanikkai shall be made and a report shall be sent to the Commissioner.

(4) Once in five years, with reference to the first appraisal or revised appraisal and annual supplementary appraisal, a consolidation, giving effect of addition and deletion, revised appraisal of jewels and valuables in respect of all religious institutions shall be made and a report, specifying the particulars referred to Sub-rule (2) shall be sent to the Commissioner.

(5) In respect of the reports of appraisal of Jewels and valuables relating to the temples having Executive Commissioner in the Cadre of Joint Commissioner, Deputy Commissioner and Assistant Commissioner, the Government shall be the approving authority.

(6) In case of other temples, the Commissioner shall be the approving authority.

1. Entire Rule 21 added by G.O. MS. No.275, Commercial taxes and Religious Endowments, dated 16th July, 1997.

ANNEXURE

1. Form of acknowledgement prescribed under Rule 8 issued under Sec.116(2)(xii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act, 22 of 1959)

1. Name of the institution:

Village:

Taluk:

District:

2. Date and time of issue:

3. Purpose of issue, i.e., daily use for adorning the deities or the name of the festival or special occasions, etc:

4. Duration of the period of which the jewels and valuables are entrusted:

5. Description of jewels and valuables:

(a) Serial number of the jewels and valuables in the register:

(b) Full description of jewels and valuables in the register:

(c) Number of items:

(d) Weight as shown in the register:

(e) Value as shown in the register:

6. Name of the officer to whom the jewels and valuables are issued:

7. Time and date of acknowledgement of the recipient:

I have taken custody of the jewels and valuables described in column 5 for daily use, festivals or special occasions for days from to after verifying and satisfying myself that they tally with the particulars in column 5.

Date and time:

Signature

Place:

Designation

Witness-

(a) Issuing Officer

(b) Any other servant of the institution.

8. Date and time of return of the jewels and valuables to the institution.

9. I have checked the jewels and valuables and satisfied myself that they tally with the particulars in column 5 and received them in good condition.

10. Remarks.

Date and time:

Signature of the person receiving back
the jewels and valuables.

Place:

Designation.

II. Form of undertaking of the office-holder receiving the jewels and valuables of the institution.

I hereby undertake to be responsible for the safety of the jewels, etc., entrusted to my custody as per my acknowledgement dated and for adorning the deities as per custom and usage and undertake to return them intact on the expiry of my turn of duty or service in the festival or special occasions and undertake to indemnify Arulmighu/Sri temple, Village Taluk, District, for the loss of whole or in part of the jewels and valuables entrusted to my custody or damage caused to them arising out of my carelessness, negligence, misconduct or any other cause as estimated by the trustee or the executive authority of the institution from my personal property and also to produce all or any of them for check at

any time under orders of the authorities of the institution failing which I hereby agree to take them as missing and make good the loss accordingly.

Date and time:

Signature,
Designation of the Office-holder

Place:

Witnesses:

1. Name of the Issuing Officer and time.
2. Name of any other servant of the institution.

Amendment Particulars

1. In Rule 10 (c) and Rule 11, for the words "Commissioner" the words "Tamil Nadu Temple Administration Board" substituted by G.O.Ms.No.506, Commercial Taxes and Religious Endowments Department dated, 13.12.91.

Again the words "the Commissioner" substituted by G.O.Ms.No.275, Commercial Taxes and Religious Endowment dated, 16th July 1997.

2. In Rule 12, for the words "The Commissioner" the words "Secretary to the Tamil Nadu Temple Administration Board" Substituted by G.O.Ms.No.506, Commercial Taxes and Religious Endowments dated 13.12.91.

Again the words "the Commissioner" substituted by G.O.Ms.No.275, Commercial Taxes and Religious Endowment dated, 16th July 1997.

3. Rule 11 substituted by G.O.Ms.No.1361, Revenue dated 5th April 1963. Published in Part V page 460 of the Fort St. George Gazette dated 24th April 1963.

RULES RELATING TO JOINT CUSTODY OF JEWELS AND HUNDIALS DURING THE PERIOD OF EXECUTIVE OFFICERS UNDER TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT.

*[Published in the Fort St. George Gazette, Part III, page 378,
dated 25th July, 1976]*

*[G.O. Ms. No. 886, Commercial Taxes and Religious Endowments,
28th June, 1976]*

S.R.O. No. A-249 of 1976. — In exercise of the powers conferred by Secs.42 and 116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act XXII of 1959), the Governor of Tamil Nadu hereby makes the following rule:-

RULE

Notwithstanding anything contained in the Custody of Jewels, Valuables, Documents and Disposal Rules, 1961, and the Installation, Safeguarding and Accounting of Hundials Rules, 1975, in the case of religious institution for which there is no hereditary trustee and the functions of the Board of Trustees or of the Trustee, as the case may be, is performed by the Executive Officer or by a fit-person appointed by the Government under Clause(b) of Sub-sec.(2) of Sec.11 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment and Special Provisions) Act, 1976 (President's Act XXIV of 1976) and in respect of such religious institution, hundials, jewels and valuables are required to be in joint custody immediately before the date of the commencement of the said President Act, the Government, or the Commissioner may, by a special order, direct that the key of one lock of each of the receptacles in which the jewels are kept and when there is a strong room, one key of such strong room, and one key of such strong room and one key of each hundial shall be entrusted by the Executive Officer or the fit-person as the case may be, to each person as may be authorized in this behalf.

THE FORM AND MANNER OF REVIEW BY GOVERNMENT RULES, 1981

[G.O. Ms. No. 487, H.R. & C.E. Department dated 9th May, 1981]

In exercise of the powers conferred by Sub-sec.(2) of Sec.114-A read with Clauses(ii) and (iii) of Sub-sec.(2) of Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959). The Governor of Tamil Nadu hereby makes the following rules.

RULES

1. Short title.— These rules may be called “THE FORM AND MANNER OF REVIEW BY GOVERNMENT RULES, 1981.”

2. Time limit to apply for review.— Every application for review shall be preferred by any person aggrieved by an order of Government within ninety days from the date of receipt of the order sought to be reviewed:

Provided that the Government may admit an application made after the period aforesaid if they are satisfied that the applicant had sufficient cause for not preferring the application within the said period.

3. The procedure to be followed in applying for review.—(1) All application preferred under these rules shall be written, typewritten or printed, fairly and legibly on substantial white foolscap folio paper and separate sheets shall be stitched together in the form of a book. The writing or typing or printing may be on both sides of the paper and pages and paragraphs shall be in Arabic figures.

(2) All applications to Government under these rules shall be headed with a cause title as set out in plaint filed under Order 7 Rule 1 of the Code of Civil Procedure, 1908 (Central Act, V of 1908). Any interlocutory application filed in the main application shall also bear the same cause title as in the application.

(3) All applications preferred under these rules shall state in distinct paragraphs the new facts of the case, the mistake or error apparent on record, the grounds for review and the relief sought and shall be signed by the applicant at the face of the application and also by the counsel if a counsel is on record and shall be verified and signed by the applicant in the manner provided for verification of a plaint in the Code of Civil Procedure, 1908.

(4) All applications preferred under these rules shall be presented in person by the concerned parties or any of them or their duly authorized counsel sent by registered post to the said office.

(5) The party presenting an application under these rules shall file along with such application as many true copies thereof as there are respondents together with two additional copies. Such copies shall be duly signed by the parties or any of them or their counsel.

(6) Every application preferred under these rules shall be accompanied by an authenticated or a certified copy of the order of Government against which review is sought.

4. Notice charges for service of Notice.— Notice charges for service of notice on the respondents at the rate of Rs.4 or such other rate as may be notified by Government from time-to-time shall also be paid at any office of the Hindu Religious and Charitable Endowments Administration Department and the relevant chalan enclosed to the application.

5. Further proceedings of Government on receipt of application.— The Government shall, on receipt of the application under these rules in a complete form, examine the

subject and pass such order as they deem fit in accordance with the provisions of Sec.114-A of the Act after giving reasonable opportunity of being heard to the respective parties.

6. Opportunity for respondents to make representation.— In application where respondents have been impleaded and notice charges have been paid for service of notice on the Government shall issue notice to such respondents, hear them, afford a reasonable opportunity to make their representations and then pass orders.

**TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
ADMINISTRATION SERVICE RULES (SECTION 18 IN VOLUME II OF THE TAMIL
NADU SERVICES MANUAL, 1969).**

S.R.O. No. B.-146/86.— In exercise of the powers conferred by the *proviso* to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the Special rules for the Tamil Nadu Hindu Religious and Charitable Endowments Administration Service Rule (Section 18 in Volume II of the Tamil Nadu Services Manual, 1969).

2.The amendment hereby made shall come into force on and from the date of issue of this order:

Provided that the amendment hereby made in so far as it relates to the post of Assistant Commissioner shall be deemed to have come into force on and from 1st October, 1983.

AMENDMENT

In the said special rules.— after Rule 2, the following rule shall be added *viz.*,

“2A. —The crucial date for possession of the prescribed qualification for appointment to any of the post in the service by promotion, or by recruitment, or by transfer shall be 1st October of each year”.

**Tamil Nadu Hindu Religious And Charitable Endowments Subordinate Service Rules
(Section 15-A in Volumes I and II of the Tamil Nadu
Services Manual, 1970)**

S.R.O.No. B-84/86. In exercise of the powers conferred by the *proviso* to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the special rules for the Tamil Nadu Hindu Religious and Charitable Endowments Subordinate Service (Section 15-A in Volume.III of the Tamil Nadu Services Manual, 1970).

2.The amendment hereby made shall be deemed to have come into force on and from the 2nd August, 1978.

AMENDMENT

In the said special rules, in Rule 4, Sub-rule (d), for the expression “preference shall be given”, the expression “other things being equal, preference shall be given” shall be substituted. (G.O. Ms. No. 97, Commercial Taxes and Religious Endowments, 28th January, 1986.)

S.R.No. B-85 86. -In exercise of the powers conferred by the *proviso* to Article 309 of the Constitution of India (Section 15-A in volume III of the Tamil Nadu Services Manual, 1970), the Governor of Tamil Nadu hereby makes the following amendment to the special rules for the Tamil Nadu Hindu Religious and Charitable Endowments Subordinate Service.

2.The amendment hereby made shall come into force on 28th January, 1986.

AMENDMENT

In the said special rules, in Rule 4, for the Sub-rule (d), the following sub-rules shall be substituted, namely: -

(d) Other things being equal, preference shall be given to the persons who hold the diploma in Epigraphy and Archaeology awarded by the Institute of Epigraphy in Tamil Nadu for appointment to the post of Executive Officers Grade I by direct recruitment; and

(e) Other things being equal, preference shall be given to the persons who have studied in Arulthiru Palaniandavar College of Oriental Culture, Palani, or in Pompuhar Peravai Kalloori, Poompuhar, and those who hold a Diploma in Epigraphy and Archaeology awarded by the Institute of Epigraphy in Tamil Nadu for appointment to the posts of Executive Officers Grade II and III by direct recruitment”.

SUKAVANESHVAR

Commissioner and Secretary to Government.

MANNER OF PUBLICATION OF THE LIST OF RELIGIOUS INSTITUTIONS (OTHER THAN MATHS OR SPECIFIC ENDOWMENTS ATTACHED THERETO) RULES.

[Published in Fort St. George Gazette, part V, page 521, dated 23rd November, 1960.]

[G.O. No. 4524, Revenue, dated 5th November, 1960]

S.R.O. No. A 582 of 1960.-In exercise of the powers conferred by section 46 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules.-

RULES

1. These rules may be called “THE MANNER OF PUBLICATION OF THE LIST OF RELIGIOUS INSTITUTIONS (OTHER THAN MATHS OR SPECIFIC ENDOWMENTS ATTACHED THERETO) RULES.”

2. The list of religious institutions prepared by the Commissioner under section 46 shall be published—

(i) on the notice-board of the office of the Commissioner;

(ii) on the notice-boards of the office of the ¹[Joint Commissioner, Deputy Commissioner and Assistant Commissioners] concerned having jurisdiction over the area in which the temple included in the list is situate or the temple to which the specific endowment included in the list is attached is situate.

(iii) On the notice-board or front door of the temple included in the list, or of the temple to which the specific endowment included in the list is attached.

(iv) in the District Gazette; and

(v) in the ²[Tamil Nadu Government Gazette]

3. Notice of the inclusion or omission of any religious institution in the list shall be sent to the trustee or trustees of the religious institution concerned.

³[4. Any modification of the list shall be communicated to the trustee or trustees and shall also be published in the manner laid down in rule].

1. The word “Joint Commissioner” added by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

2. Substituted for the words “Fort St. George Gazette” by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

3. Above referred Rule 4 substituted by G.O. Ms. 3347, Revenue, dated 23rd November 1963.

Note. - The lists published by affixture to the notice-boards of the offices of Deputy Commissioners and Assistant Commissioners need contain only the names of the Religious Institution within the jurisdiction of the officers concerned. For the purpose of Rule 2 (iii), it shall be sufficient if the notice contains the information that the religious institution concerned is one included in the list.

FUNCTIONING OF THE BOARD OF TRUSTEES RULES.

*[Published in Fort St. George Gazette, Part V, Page 521,
dated 23rd November, 1960]*

[G.O. No. 4524, Revenue, dated 5th November 1960]

S.R.O. No. A-583 of 1960. - In exercise of the powers conferred by clauses (viii) and (ix) of sub-section (2) of section 116, read with sections 47, 48 and 49 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules: -

RULES

1. These rules may be called "FUNCTIONING OF THE BOARD OF TRUSTEES RULES."

¹[1-A. ²[Assistant Commissioner], shall for the purpose of constituting the Board of Trustees, group, religious institutions, whose annual income is less than ten thousand rupees and are situated within a radius of ten kilometres for better management and governance of such religious institutions)]

³[2. (1). The Board of Trustees of a religious institution shall meet ordinarily once in a month and more often, if need be, for the transaction of the business of the religious institutions. Meetings shall be convened by the Chairman of the Board of Trustees.

Provided that not more than three months shall lapse between the date of one meeting of the Board of Trustees and that of the next.

(2). In the case of religious institutions having an Executive Officer, meeting shall be convened by the Executive Officer on such dates as he may fix in consultation with the Chairman of the Board of Trustees:

Provided that the Executive Officer shall himself fix the date for a meeting if the Chairman on a reference made to him in writing by the Executive Officer in that behalf, does not communicate his opinion to the Executive Officer within the time specified in such reference.

(3). In the case of a religious institution which has no Executive Officer, meeting shall be convened by the ⁴[Chairman of Board of Trustees on such dates as he may fix)]

³[3. The meeting of the Board of Trustees shall be held at the place where the religious institutions is situated and in the premises of the religious institution itself or in the premises of its office. Where the religious institutions is a specific endowment having no office premises, the

1. Rule 1-A inserted by G.O. Ms. No. 506, Commercial Taxes and Religious endowments, dated 13th December, 1991.

2. In Rule 1-A substituted for the words "District Committee" by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July 1997.

3. Rules 2, 3 and 4 substituted by G.O. Ms. No. 1244, Commercial Taxes and Religious Endowments dated 13th August, 1979.

4. Substituted for the words "Chairman of the Trustees" by G.O. Ms. No. 3347, Revenue, dated 23rd November, 1963

meeting shall be held at the places fixed by the commissioners, ¹[Joint Commissioner or the Deputy Commissioner] or the Assistant Commissioner, as the case may be]

²[4.(1) Notice of a meeting specifying the date, time and place of the meeting with a copy of the agenda for the meeting shall be caused to be served by the Executive Officer or the Chairman of the Board of Trustees, as the case may be, on the trustees at least seven days prior to the date fixed for the meeting. Such service shall be so effected, by giving or tendering the Notice to every trustee personally or if it cannot be so effected, by sending the Notice to him by registered post with acknowledgement due to his usual place of residence. The agenda shall be prepared by the Executive Officer or The Chairman as the case may be, and where Executive Officer prepares the agenda, he shall include in the agenda the subjects suggested by the Chairman. It shall, however, be open to the Board of Trustees to hold a meeting without observing the requirement as to notice when all the trustees agree to waive that requirement.

(2). In case of emergency, the Executive Officer or The Chairman of the Board of Trustees, as the case may be, may convene a meeting or giving shorter notice than that specified in sub-rule (1).

(3) The Executive Officer or the Chairman of the Board of Trustees, as the case may be, shall on requisition in writing of not less than two trustees, convene a meeting, specifying the purposes of the meeting and giving at least five days' notice].

3. The meetings shall be held in the premises of the Religious Institution concerned or in the premises of the office thereof. Where the institution is a specific endowment having no office premises, the meetings shall be held at a place fixed by the Commissioner or the Area Committee, as the case may be.

4. (1) Notice of the meeting with a copy of the agenda for the meeting shall be circulated by the Chairman to the trustees at least seven days prior to the date fixed for the meeting. The agenda shall be prepared by the Chairman in consultation with The Executive Officer of the institution, if there is an Executive Officer, and the Chairman shall also include in the agenda the subjects suggested by the Executive Officer. Such notice shall specify the date, time and place of the meeting. Notice of the meeting with a copy of the agenda if sent by ordinary post to the usual place of residence of the trustees shall be deemed to be sufficient notice. It shall however be open to the Chairman to hold a meeting without observing the requirement as to notice when the trustees agree to waive that requirement.

(2) In cases of emergency, the Chairman may convene a meeting on giving shorter notice, than that specified in Sub-rule(1).

(3) The Chairman shall, on requisition in writing of not less than two trustees; convene a meeting of the trustees specifying the purpose of the meeting and giving at least five days' notice.

5. All papers relating to the agenda shall be made available to the trustees for inspection at the place of the meeting and at the time of or before the commencement of the meeting.

6. Where the number of trustees is three, the quorum for the meetings shall be two, and where the number of trustees is five, the quorum shall be three. Where the number of trustees exceeds five, the Commissioner shall decide what the quorum shall be:

Provided that such number shall not be less than one-third of the total number of trustees or three, whichever is higher.

If within half an hour after the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned, unless the trustees present agree to wait longer.

7. Every meeting of trustees shall be presided over by the Chairman and in his absence, by a trustee chosen by the meeting to preside for the occasion.

1. The words "Joint Commissioner" added by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

2. Rules 2, 3 and 4 substituted by G.O. Ms. No. 1244, Commercial Taxes and Religious Endowments dated 13th August, 1979.

8. The questions, which may come before any meeting shall be decided by a majority of votes and when the votes are equally divided, the Chairman or the trustee presiding for the occasion, as the case may be, shall have and exercise a second and casting vote.

9. The Executive Officers, if any, of the Religious Institutions shall always be present at the meetings, produce whatever accounts, registers or records, cash or other movable properties, which are called for by the trustees or are relevant to the subjects in the agenda. The Executive Officer shall not be entitled to vote.

10. Minutes of the proceedings at each meeting shall be recorded in a book to be kept for that purpose and shall be signed by the Chairman or the trustee who presided at such meetings, as the case may be, and all the other trustees present at the meeting. The minutes book shall be kept in the office of the institution in the custody of the Chairman or in the custody of an Executive Officer in the case of an institution having an Executive Officer.

11. The minutes shall be recorded in English or in Tamil as may be decided upon by the trustees.

¹[12. Within a week from the date of the meeting, a copy of the proceedings of such meeting shall be forwarded to the Assistant Commissioner in respect of the Institution the jurisdiction of the Assistant Commissioner, to the Joint Commissioner or the Deputy Commissioner in respect of the institutions in the jurisdiction of the Joint Commissioner or the Deputy Commissioner and to the Commissioner in respect of the other institutions. The respective authorities specified in this rule shall examine the proceedings of the meeting whether there is any need to invoke *suo motu* revision by the commissioner under section 21.]

Rule 12 of Principal Rules

12. Within a week from the date of the meeting a copy of the proceedings of such meeting shall be forwarded to the Area Committee in respect of the institutions in the jurisdiction of the Area Committee and to the Commissioner in respect of the other institutions.

⁶[The respective authorities specified herein in this rule shall examine the proceedings of the meeting whether there is any need to invoke *suo motu* revision by the Commissioner under Section 21.]

6. The following provisions added in Rule 12 of Principal Rules at the end by G.O.Ms.No.506, Commercial Taxes and Religious Endowments, dated 13.12.91.

13. The Chairman or the presiding trustee, as the case may be, shall maintain order and decorum at the meetings and the subjects on the agenda shall be taken for consideration in the order in which they appear in the agenda unless it is decided at the meeting that they should be taken up otherwise.

²[14. All matters relating to the Administration of the religious institutions shall be decided at the meetings of the Board of Trustees. The Executive Officer or the Chairman of the Board of Trustees, as the case may be, shall carry into effect the ³[decisions of the Board of Trustees, after obtaining the orders of the competent authority on individual subjects.]

²[15(1) The Executive Officer (in the case of a religious institution having an Executive Officer) or the Chairman of the Board of Trustees, as the case may be, may in case of emergency ascertain the opinion of the Board of Trustees by circulation of the records among all the trustees and in case of unanimity of opinion, carry out the decision. If there is a difference of opinion

1. Rule 12 substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Institutions dated 16th July, 1997

2. Rule 14 and 15 substituted by G.O. Ms. No. 124, Commercial Taxes and Religious Institutions, dated 13th March, 1979.

3. Substituted for the expression "decisions of the Board of Trustees" by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

among the trustees during such circulation, the matter shall be considered at an emergency meeting of the Board of Trustees concerned for that purpose.

(2) Every unanimous decision ascertained in circulations shall be placed before the next meeting of the Board of Trustees for confirmation.]

Rules 14 and 15 of Principal Rules

14. All matters relating to the administration of the institution shall be decided at the meetings of the trustees. The Chairman shall give effect to the decisions made at the meetings.

15. (1) The Chairman may in case of emergency ascertain the opinion of the trustees by circulation of the records among all the trustees, and in case of unanimity of opinion carry out the decision. If there is difference of opinion among the trustees during such circulation, the matter shall be considered at an emergent meeting convened for that purpose.

(2) When an unanimous decision is ascertained in circulation, the decision shall be placed before the next meeting of the trustees for confirmation.

16. Election of the Chairman shall be made at a special meeting and shall be by secret ballot. When there is no Chairman or officer for convening a special meeting, the Assistant Commissioner having jurisdiction over the area in which the institution is situate or any officer specially ¹[authorized by the Assistant Commissioner, Deputy Commissioner, Joint Commissioner or the Commissioners, as the case may be] in this behalf shall convene the special meetings and preside over them. He shall not, however, have power to vote. If the voting results in a tie, ²[xxx] the presiding officer shall cast lots and the person in whose favour the lot is drawn shall be deemed to be elected.

17. A copy of the minutes of the proceedings of the meetings shall be sent to the Commissioner ³[Joint Commissioner] Deputy Commissioner ⁴[or Assistant Commissioner] as the case may be, and the results of election shall be notified by affixture on the notice board or front door of the temple or in the case of specific endowment attached to a temple on the notice board or front door of the temple to which it is attached.

18. Chairman shall be elected under Sub-secs.(1) and (2) of Sec.48 within sixty days of the date of the order of appointment of the last trustee constituting the Board of Trustees or within thirty days from the date of order directing the election of a Chairman or within fifteen days ⁵[before the date of expiry of the period] of the outgoing Chairman.

^{5a}[18-A. If no chairman is elected within the period specified in Rule 18, the Government, the Commissioner, Joint Commissioner, the Deputy Commissioner, or the Assistant Commissioner as the case may be, shall nominate the Chairman.]

19. ⁶[(1) The Chairman elected or nominated by the Government. The Commissioner, Joint Commissioner, Deputy Commissioner or The Assistant Commissioner, as the case may be,

1. Substituted for the words "authorized by him" by G.O. Ms. No. 275, Commercial Taxes and Religious Institution, dated 16th July, 1997.

2. The words "a second vote shall be taken; if again it ends in a tie" omitted by G.O. Ms. No. 3347, Revenue, 23rd November, 1963.

3. Joint Commissioner added by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

4. For the words "or Area Committee" the words "Assistant Commissioner" substituted.

5. The words before the date of expiry "Substituted for the words" from the date of expiry by G.O. Ms. No. 938, Revenue, dated 26th March, 1964.

5a. Rule 18-A Inserted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

6. Rule 19. Sub-rule (1) by G.O. Ms. No.275 Commercial Taxes and Religious Endowments, dated 16th July, 1997.

either under Sub-sec.(1) or under Sub-sec.(2) of Sec.48 shall hold office for a period of three years from the date of his election or nomination, unless he ceases to be a trustee in the meanwhile.]

(2).¹[xxx]

²[20. The chairman may resign his office in writing and the resignation shall take effect from the date on which it is accepted by the commissioner or the Board of trustees.]

Rules 19 and 20 of Principal Rules

19. A Chairman elected or nominated by the Commissioner either under Sub-section (1) or under Sub-section (2) of Section 48 shall hold office for a period of two years from the date of his election or nomination, unless he ceases to be a trustee in the meanwhile.

20. The Chairman may resign his office in writing and the resignation shall take effect from the date on which it is accepted by the trustees.

Rule 19 as amended by G.O.Ms.No.1244 Commercial Taxes and Religious Endowments dated 13.8.1979.

19. (1) A Chairman deemed or nominated by the Government, Commissioner and the Deputy Commissioner either under Sub-section (1) or under Sub-section (2) of Section 48 shall hold office for a period of three years from the date of his election or nomination, unless he ceases to be a trustee in the meanwhile.

(2) Any person holding the office of the chairman on 6.4.66 shall hold office for a period of three years from the date of his election or nomination as Chairman unless he ceases to be a trustee in the meanwhile.

In Rule 19, Sub-rule (1) the words "The Temple Administration Board, or as the case may be by the District Committee" Substituted for the words "Government, Commissioner and the Deputy Commissioner" by G.O.Ms.No.506, Commercial Taxes and Religious Endowments, dated 13th December 1991.

PUNISHMENT OF OFFICE-HOLDERS AND SERVANTS OF RELIGIOUS INSTITUTIONS (OTHER THAN MATHS AND SPECIFIC ENDOWMENTS ATTACHED THERETO) RULES, 1960.

[Published in Fort St. George Gazette, part V, page 525 dated 30th November 1960.]

[G.O. No. 4524, Revenue, dated 5th November, 1960]

S.R.O. No. A-584 of 1960. - In exercise of the powers conferred by Sec.56 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959 the Governor of Madras hereby makes the following rules:

RULES

1. These rules may be called "THE PUNISHMENT OF OFFICE-HOLDERS AND SERVANTS OF RELIGIOUS INSTITUTIONS (OTHER THAN MATHS AND SPECIFIC ENDOWMENTS ATTACHED THERETO) RULES."

2. (a) No order imposing any punishment other than a fine under Sub-sec.(1) of Sec.56 (other than an order based on facts which have led to his conviction by a Criminal Court) shall be made against any office-holder or servant unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges which shall be communicated to the person charged, together with a statement of the allegations on which each charge is based and of any other circumstances, which it is proposed to take into consideration in passing orders on the case. He shall be required, within a reasonable time to put in a written statement of his defence and to state whether he desires an oral enquiry or only to be heard in person. An oral enquiry shall be held if such an enquiry is desired by the person charged or is decided upon by the trustee. At that enquiry, oral evidence shall be heard as to such of the allegations as are not admitted, and the person charged shall be

1. In Rule 19, Sub-rule (2) omitted by *Ibid*.

2. Rule 20 substituted by *Ibid*.

entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish, provided that the trustee may, for special and sufficient reason to be recorded in writing, refuse to call a witness or require the delinquent to bear the expenses of such witnesses. After the enquiry as required has been completed, the person charged shall be entitled to put in, if he so desires, any further written statement of his defense. If no oral enquiry is held and if he had desired to be heard in person, a personal hearing shall be given to him. The proceedings shall contain a sufficient record of the evidence and a statement of the findings and the grounds thereof. Every order of suspension, removal or dismissal shall state the charges, the explanation and the finding on each charge with the reasons therefor.

(b) In every case where it is proposed to impose fine on the office-holder or servant, he shall be given a reasonable opportunity of showing cause against the action proposed to be taken against him.

3. The requirements of Rule 2 shall not apply where the person concerned has absconded, or where it is for other reasons impracticable to communicate with him. All or any of the provisions of Rule 2 may in exceptional cases for special and sufficient reasons to be recorded in writing, be waived by the trustee, where there is difficulty in observing exactly the requirements of the rule and those requirements can be waived without injustice to the person charged.

4. Pending the disposal of the grave charge or charges against the office-holder or servant, the trustee may place him under suspension when such suspension is necessary in the interest of public service.

5. Every order of punishment under Sub-sec.(1) of Sec.56 shall be communicated in writing to the person against whom it is passed.

MANNER OF PUBLICATION OF THE STANDARD SCALE OF EXPENDITURE RULES

*[Published in Fort St. George Gazette, Part I, Page 140,
dated 30th March, 1960]*

[G.O. No. 866, Revenue, dated 13th February, 1960]

SRO. No. A 2120 of 1960. — In exercise of power conferred by Sec.116 read with Sub-sec.(3) of Sec.58 of Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959) the Governor of Madras hereby makes the following Rules.

RULES

1. These rules may be called "THE MANNER OF PUBLICATIONS OF THE STANDARD SCALE OF EXPENDITURE RULES."

2. The order passed by ¹[²The Assistant Commissioner] or the Deputy Commissioner or the Joint Commissioner as the case may be] under Sub-section (3) of Section 58 of the Act shall be published by affixture.

(i) on the Notice-Board or front door of the temple concerned.

1. The words "the district committee or temple administrative committee" substituted by G.O. Ms. No. 506, CT & CE dated 13th December, 1991.

2. For the words "Area Committee" the words "Assistant Commissioner" substituted by S.R.O.A.No. 655 of 1970.

(ii) on the Notice-Board of the office of the ¹[Joint Commissioner or Deputy Commissioner] and of the ¹[Assistant Commissioner having Jurisdiction over the area in which the temple concerned is situate; and

(iii) on the Notice-Board of the office of the panchayat Union in which the temple concerned is situate.

²[3. Proposals fixing dhittam or scale of expenditure into institution shall be sent by the trustee or the chairman. Board of Trustees of religious institution.

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| (a) | In the case of Institution whose annual assessable income exceeds Rs. 2 Lakhs and above. | To the Commissioner |
| (b) | In the case of Institution whose annual assessable income exceeds Rs. 1,00,000 but does not exceed Rs. 2 Lakhs | To the Joint Commissioner or the Deputy Commissioner as the case may be having jurisdiction. |
| (c) | In the case of institution not included into list published under Sec.46 and is not a religious institution notified under chapter V of the Act. | To the Assistant Commissioner having Jurisdiction. |

FRAMING OF SCHEMES RULES

[Published in the Fort St. George Gazette, Part V, page 681, dated 21st December, 1960]

[G.O. No.4851, Revenue, dated 26th November, 1960.]

S.R.O No. A-170 of 1960. - In exercise of the powers conferred by sections 64 and 65 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules: -

RULES

1. These rules may be called THE FRAMING OF SCHEMES RULES.

2. The consultation required under sub-sections (1), 5(a), 5(b) of section 64 shall be made in the following manner: -

(a) When the Deputy Commissioner proposes on his own motion to take action under Sub-secs.(1) or (5) (a) or (5) (b) of Sec.64 in respect of any institution coming under that section or where an application under sub-section (1) is received by him, he shall give notice of his proposal or of the application, as the case may be, to the trustee or the trustees ³[and the Assistant Commissioners if any] having jurisdiction over the institution and the persons having interest calling upon them to submit any representations they may wish to make before a date to be specified in such notice, which shall be not less than two months from the date of its issue.

1. The words "the district committee or temple administrative committee" substituted by G.O. Ms. No. 506, CT & CE dated 13th December, 1991.

2. Rule 3 substituted by G.O. Ms. No. 275, CT & CE Dated 16th July, 1997. Again the words the "Assistant Commissioner, Deputy Commissioner, Joint Commissioner or Commissioner as the case may be". Substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

3. Sub-rule (a) the words "and area committee, if any, having jurisdiction over the "institutions" omitted by S. R. O. No.A650 of 1960. The expressions "and when the institution concerned is within the jurisdiction of the area committee, also the Assistant Commissioner, on behalf of the area committee concerned omitted by *ibid*.

(b) If, after a consideration of the objections, or suggestions, if any, received by him, he has reason to believe that a scheme should be settled, or modified or cancelled, he shall give notice to the trustee or the trustees, ¹[and the Assistant Commissioners if any] and the persons having interest, of his intention to settle, modify or cancel a scheme of administration, for the institution and call upon them to submit in writing any objections or suggestions they may wish to make before the date specified in such notice for an enquiry.

(c) The notice under sub-rules (a) and (b) shall be sent by registered post to the trustee or the trustees and the persons having interest. A copy of the notice shall be affixed on the notice board or front door of the temple and in the case of a specific endowment attached to a temple on the notice-board or front door of the temple to which the specific endowment is attached, on the notice-board of the office of the Joint or the Deputy Commissioner and on the notice-board of the office of the Assistant Commissioner within whose division the institution is situate, and on the notice-board of the office of the Municipal Council including the Corporation of Madras or village chavadi concerned. Such affixture shall be deemed to be sufficient intimation to persons having interest. All representations submitted in time by the trustee ²[or the Assistant Commissioner] or persons having interest shall be taken into consideration by the [Joint Commissioner or Deputy Commissioner] is settling, modifying or cancelling the scheme.

³[3. Proposals for fixing the dhittam or scale of expenditure in the institution shall be sent by the trustee or the chairman, board of trustees of religious institutions. –

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| (a) In the case of Institutions whose annual assessable income exceeds Rs.2 lakhs and above. | To the Commissioner |
| (b) In the case of institutions whose annual assessable income exceeds Rs.10,000 but does not exceed Rs.2 lakhs. as the case may be, having Jurisdiction. | To the Joint Commissioner or Deputy Commissioner |
| (c) In the case of institutions not included in the list published under Sec.46 and is not a religious institutions notified and deemed to have been notified under Chapter 5 of the Act. | To the Assistant Commissioner having jurisdiction] |

Amendment Particulars

Rule 3 of Principal Rule

3. While considering the modification or cancellation of a scheme in force settled or modified by the Court in a suit under Sub-sec.(1) of Sec.70 or on an appeal under Sub-sec.(2) of that section or of a scheme in force deemed to have been settled or modified by the Court under Clause (a) of Sub-sec.(2) of Sec.118, the Deputy Commissioner shall give notice of the modifications or the reasons for cancellation proposed by him to the trustee or the trustees and the persons having interest calling upon them to submit any representations, they may wish to make before a date to be specified in such notice which shall not be less than two months.

1. Sub-rule (a) the words "and area committee, if any, having jurisdiction over the "institutions" omitted by S. R. O. No.A650 of 1960. The expressions "and when the institution concerned is within the jurisdiction of the area committee, also the Assistant Commissioner, on behalf of the area committee concerned omitted by *ibid*.

2. The words "or the area committee" omitted by S.R.O.No. A 650 of 1960 and Religious Endowment, dated 13th December, 1991.

3. Rules 3 substituted by G.O.Ms.No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1992.

(3) proposals for fixing the dhittam or scale of expenditure in the institution shall be sent by the trustee or the Chairman of the Board of Trustees of religious institutions.

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|---|---|
| (a) In case of institution whose annual assessable income exceeds Rs.10 lakhs; | To the Tamil Nadu Temple Administration Board through the Commissioner. |
| (b) In case of institution whose annual assessable income exceeds Rs.1 lakh but does not exceed Rs.10 lakhs. | To the Tamil Nadu Temple Administration Board through the Deputy Commissioner having jurisdiction and the Commissioner. |
| (c) In the case of institutions whose annual assessable income exceeds Rs.10,000 but does not exceed Rs. One lakh. | To the District Committee through the Deputy Commissioner having jurisdiction; and |
| (d) In the case of institutions not included in the list published under Section 46 and is not a religious institution notified and deemed to have been notified under Chapter VI of the Act. | To the District Committee through the Assistant Commissioner having jurisdiction |

¹[4. The officer specified in Rule 3 shall scrutinize the proposals with reference to the amounts, which shall be allotted to the various objects connected with such institutions or such proportions in which the income or other property of institutions may be applied to such objects with reference to the income of the institutions so as to maintain a working balance after meeting the statutory liabilities and expenses connected with repairs and renovations of the institutions including the buildings attached with the institution.]

Amendment history to Rule 4

Rule 4 of Principal Rule

4. Every order of the Deputy Commissioner settling, modifying or cancelling a scheme under Section 64 shall be published as follows:-

(i) by affixture in the-

(a) notice board or front door of the institution concerned, and in the case of a specific endowment in the notice board or front door of the institution to which the specific endowment is attached;

(b) notice board of the office of the Municipal Council, including the Corporation of Madras or village chavadi concerned;

(c) notice boards of the offices of the Assistant Commissioner and the Deputy Commissioner concerned.

(d) any other conspicuous place in the locality in which the institution is situated.

(ii) by publication in the-

(a) district gazette in the language of the district concerned in the case of an institution situated in the district.

(b) Fort St. George Gazette in the case of a specific endowment attached to temples in more than one district or in the case of an institution situated in the City of Madras or in the case of a specific endowment attached to one or more institutions in the City of Madras or one or more institutions in the City of Madras and one or more institutions in one or more districts.

Rule 4 substituted by G.O.Ms.No.506, Commercial Taxes and Religious Endowments, dated 13th December 1991.

5. The consultation required under Sub-secs.(1), 4(a) and 4(b) of Sec.65 shall be made in the following manner :-

(a) When the commissioner proposes on his own motion to take action under Sub-sec.(1) or 4 (a) or 4 (b) of Sec.65 or where an application under Sub-sec.(1) is received by him, he shall give notice of his proposal or of the application, as the case may be, to the trustee or the trustees and the persons having interest calling upon them to submit any representations they may wish to make before a date to be specified in such notice which shall not be less than two months from the date of its issue.

1. Rule 4 substituted by G.O Ms. No. 506, Commercial Taxes Religious Endowments, dated 13th December, 1991.

(b) If, after considering the objections or suggestions, if any, received by him, he has reason to believe that a scheme should be settled, modified or cancelled, he shall give notice to the trustee or the trustees and the persons having interest, of his intention to settle, modify or cancel a scheme of administration for the math or a specific endowment attached to a math and call upon them to submit in writing any objections or suggestions they may wish to make before the date specified in such notice for an enquiry.

(c) the notice under Sub-rules (a) and (b) shall be sent by registered post to the trustee or the trustees concerned. A copy of the notice shall be affixed on the notice-board or front door of the math and in the case of a specific endowment attached to a math on the notice-board or front door of the math to which the specific endowment is attached, on the notice-board of the office of the Deputy Commissioner and on the notice-board of the office of the Assistant Commissioner, within whose division the math is situate, and on the notice-board of the municipal council including the Corporation of Madras or village chavadi concerned. Such affixture shall be deemed to be sufficient intimation to persons having interest. All representations submitted in time by the trustee or the trustees and the persons having interest shall be taken into consideration by the Commissioner in settling, modifying or cancelling the scheme.

6. While considering the modification or cancellation of a scheme in force, settled or modified by the court in a suit under Sub-sec.(1) of Sec.70 or on an appeal under Sub-sec.(2) of that section or of a scheme in force deemed to have been settled or modified by the Court under clause (a) of Sub-sec.(2) of Sec.118, the Commissioner shall give notice of the modifications or reasons for the cancellation proposed by him to the trustee or the trustees and the persons having interest calling upon them to submit any representations they may wish to make before a date to be specified in such notice which shall not be less than two months.

7. Every order of the Commissioner settling, modifying or cancelling a scheme under Sec.65 (5) shall be published as follows :-

(i) by affixture in the -

(a) notice-board or front door of the math concerned, and in the case of a specific endowment attached to a math, in the notice board or front door of the math to which the specific endowment is attached;

(b) notice-board of the office of the municipal council including the Corporation of Madras or village chavadi concerned;

(c) notice board of the offices of the Assistant Commissioner and the Deputy Commissioner concerned; and

(d) any other conspicuous place in the locality in which the math is situated.

(ii) by publication in the Fort St. George Gazette.

[8. The powers of the Joint or Deputy Commissioner under Sec.65(5)(a) or the Commissioner under Sec.65(4)(a) respectively to modify or to cancel a scheme settled or deemed to have been settled by a Court, shall be subject to the condition that the Joint or Deputy Commissioner or the Commissioner as the case may be, shall satisfy himself, that such modification or cancellation is necessary under all or any of the following circumstances namely;

(1) Where the provisions contained in the scheme could not be worked out properly in the interest of the institutions concerned.

(2) Where the provisions though ordinarily precise and complete had become under altered circumstances unsuitable to carry out the intentions and objects of the provisions.

(3) Where a scheme framed by the Court itself had in like manner become unsuitable for that purpose.

(4) Where it is necessary to provide sufficient safeguards for the protection of the properties of the institutions and for realization of the income therefrom.

(5) Where it is felt necessary to eliminate or minimize the difficulties which may arise in the matter of nomination or election of trustee or trustees or other procedure, if any, contemplated in such scheme.]

APPROPRIATION OF ENDOWMENTS RULES, 1960.

[Published in the Fort St. George Gazette, part V, page 683, dated 21st December, 1960]

[G. O. No. 4851, Revenue dated 26th November, 1960]

S. R. O. No. A-711 of 1960. – In exercise of the powers conferred by Sub-sec.(1) and Clause(i) of Sub-sec.(2) of Sec.116 read with Sub-sec.(3) of Sec.66 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras XXII of 1959), the Governor of Madras hereby makes the following rules: -

RULES

1. These rules may be called “THE APPROPRIATION OF ENDOWMENTS RULES.”

2. A notice as detailed in Rule 3 shall be served on, or sent by registered post with acknowledgement due to the trustee or trustees of the religious institution.

3. Notice of the proceedings under Sub-sec.(1) or Sub-sec.(2) or Sec.66 for the appropriation of endowments shall contain particulars of the endowments and the purpose or purposes for which the appropriation is proposed. The notice shall specify a date, which shall not be less than thirty days from the date of its issue, within which objections or suggestions, if any, may be sent. It shall also specify the date on which an inquiry, if any, is proposed to be held to consider the objections or suggestions.

4. A copy of the notice shall be published by affixture-

(a) on the notice-board of the office of the Assistant Commissioner in whose division the institution is situated and the office of the ¹[Joint Commissioner, and Deputy Commissioner;]

(b) on the notice-board or the front door of the temple or math concerned;

(c) on the notice-board of the office of the municipal council including the Corporation of Madras or village chavadi and if there is no village chavadi, in some other public place in the village in which the temple or math is situate; and

(d) in any other conspicuous place in the locality in which the temple or math is situate which may be selected by the ¹[Joint Commissioner and Deputy Commissioner] in his discretion:

Provided that where the proposal is in respect of a specific endowment, the properties of which are not situate in the municipality including the Corporation of Madras or village in which the temple or math is situate, the notice shall also be published in the manner aforesaid in the places in which the properties are situate.

5. A copy of the order of the ¹[Joint Commissioner and Deputy Commissioner as the case may be] shall, in addition to being communicated to the trustee or trustees and to the persons who appeared in the proceedings, be published in the manner laid down in Rule 4 for the publication of the notice.

1. The words “the Joint Commissioner and Deputy Commissioner” substituted for the words “The Deputy Commissioner” substituted by G.O. Ms. No. 275 Commercial Taxes Religious Endowments dated 16th July, 1997.

The order shall also be published in the District Gazette in the case of a math or temple or specific endowment attached to a math or temple situated in the district, or in the Fort St. George Gazette (presently Tamil Nadu Government Gazette) in the case of a math or temple or specific endowment attached to a math or temple situated in the City of Madras (presently city of Chennai) or to specific endowments attached to maths or temples situated in more than one district.

THE DETERMINATION OF PROPERTIES ¹[OF] DEFUNCT INSTITUTIONS RULES, 1960.

[Published in the Fort St. George Gazette, part V, page 684, dated 21st December, 1960.]

[G.O. No. 4851, Revenue dated 26th November, 1960.]

S.R.O.No. A-712 of 1960. – In exercise of the powers conferred by clause (i) of Sub-sec.(2) of Sec.116 read with Sub-secs.(1), (2) and (4) of Sec.67 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. These rules may be called “THE DETERMINATION ¹[OF] PROPERTIES ¹[OF] DEFUNCT INSTITUTIONS RULES.”

2. When the ²[Joint Commissioner or the Deputy Commissioner as the case may be] proposes to take action under Sub-sec.(1) of Sec.67, notice of the enquiry shall be sent by Registered-post with acknowledgement due –

(a) to the person or persons in possession of the properties of the religious institution in question.

(b) to the person or persons, if any, who was a trustee or were trustees of the institutions before it ceased to exist; and

(c) where the religious institution was a specific endowment, to the trustee or trustees of the temple or math to which the specific endowment was attached.

3. A copy of the notice shall be ³[published by affixture]:

(i) on the notice-board of the office of the Assistant Commissioner having jurisdiction over the area in which the temple or math concerned was situated and of the office of the ²[Joint Commissioner or Deputy Commissioner,]

(ii) on the notice-board of the office of the municipal council including the Corporation of Madras (presently Chennai) or village chavadi and if there is no village chavadi in some other public place in the village in which the temple or math was situated, and

(iii) in another conspicuous place in the locality in which the temple or math was situated, which may be selected by the ²[Joint Commissioner or Deputy Commissioner] in his discretion:

⁴[(b) by beat of tom-tom in the locality in which the temple or math was situated]

Provided that where the proposal is in respect of a specific endowment, the properties of which are not situate in the municipality including the Corporation of Madras or village in which the temple or math to which a specific endowment was attached was situated, the notice shall also

1. Substituted for the word “or” by G.O. No. 3347, Revenue, 23rd November, 1963.

2. The words “the Joint Commissioner and Deputy Commissioner” substituted for the words “The Deputy Commissioner” substituted by G.O. Ms. No. 275 Commercial Taxes Religious Endowments dated 16th July, 1997.

3. Substituted for the words “published by affixture” by G.O. No. 3347 Revenue dated 23 November, 1963.

4. Item (iii) Clause (b) inserted by *ibid*.

be published in the manner aforesaid in the places in which properties are situate.

4. When the ¹[Joint Commissioner or the Deputy Commissioner] proposes to take action under Sub-sec.(2) of Sec.67, notice of the inquiry shall be sent by registered post with acknowledgement due, to the person in possession of the buildings or place which has ceased to be used for religious worship or instruction. A copy of the notice shall also be published by affixture-

(i) on the notice-board of the office of the Assistant Commissioner having jurisdiction over the area in which the building or other place which was being used for religious worship or instruction is situate and of the office of the ¹[Joint Commissioner or the Deputy Commissioner.]

(ii) on the notice-board of the office of the municipal council including the Corporation of Madras, or village chavadi and if there is no village chavadi, in some other public place in the village in which the building or other place which was being used for religious worship or instruction is situate, and

(iii) in another conspicuous place in the locality in which the building or other place which was being used for religious worship or instruction is situate, which may be selected by the ¹[Joint Commissioner or the Deputy Commissioner] in his discretion.

5. A copy of the order of the Joint Commissioner or the Deputy Commissioner shall, in addition to being published in the manner laid down for notices in Rule 3 or Rule 4 as the case may be, also be published in the district gazette in the case of the math or temple or specific endowment attached to a math or temple, or buildings or other places which were being used for religious worship or instruction situated in the district or in the Fort St. George Gazette in the case of a math or temple or specific endowment attached to a math or temple, buildings or other places which were being used for religious worship or instructions situated in the City of Madras, or to specific endowments attached to maths or temples situated, in more than one district.

6. The inquiry under Sec.67 shall be conducted in the manner prescribed in Rules 2 to 6 of the rules relating to the conduct of enquiries under Secs.63 to 69.

NOTIFICATION OF RELIGIOUS INSTITUTIONS RULES.

[Published in Fort St. George Gazette, Part V, Page 610, dated 7th December, 1960.]

[G.O. No. 4793, Revenue, dated 22nd November, 1960.]

S.R.O.No. A-647 of 1960. – In exercise of the powers conferred by Sub-sec.(1) and Clause (i) of Sub-sec.(2) of Sec.116, read with Sub-sec.(1) of Sec.71 and Sub-sec.(2) of Sec.72 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. These rules may be called the “NOTIFICATION OF RELIGIOUS INSTITUTIONS RULES.”

2. (1) The notice referred to in Sub-sec.(1) of Sec.71 of the Act shall be sent by registered post with acknowledgement due.-

(a) To the trustee or trustees concerned.

1. For the words “Deputy Commissioner” wherever they occur words “Joint Commissioner or Deputy Commissioner” substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

Provided that where the religious institution has an Executive Officer or manager appointed under any provisions of the Act or under the provisions of a scheme settled or deemed to have been settled under the Act, the notice shall also be served on him in the manner laid down in this rule; and

(b) To such other persons having interest in the religious institution as the Commissioner may deem necessary.

(2) A copy of the notice shall be published by affixture: -

(a) On the notice-board of the office of the Assistant Commissioner in whose division, the institution concerned is situate and of the office of Deputy Commissioner.

(b) On the notice-board or the front door of the institution concerned; and

(c) On the notice-board of the office of the municipal council including the Corporation of Madras or village chavadi and if there is no village chavadi in some other public place in the village in which the institution is situate; and

(d) In any other conspicuous place in the locality which may be selected by the Commissioner in his discretion:

Provided that where the proposal is in respect of a specific endowment, the properties of which are not situate in the municipality including the Corporation of Madras or the village in which the temple or math is situate, the notice shall also be published in the manner aforesaid in the places in which the properties are situate.

(3) A copy of the notice shall also be published in one or more daily newspapers having circulation in that locality in which the institution is situated.

3. The inquiry under Sec.72 (2) shall be conducted in the manner prescribed for conducting enquiries by the Commissioner or the Deputy Commissioner under Secs.63 to 72.

REMOVAL OF ENCROACHMENTS ON LANDS OR BUILDINGS BELONGING TO RELIGIOUS INSTITUTIONS RULES

[G.O. Ms. No. 383, Revenue dated 29th January, 1962.]

S.R.O.No. A. 186 of 1962. - In exercise of the powers conferred by Sub-sec.(2) of Sec.116, read with Sub-sec.(3) of Sec.78 and Sub-sec.(3) of Sec.79, Sub-sec.(3) of Sec.80 and Sub-sec.(3) of Sec.81 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras XXII of 1959), the Governor of Madras hereby makes the following rules: -

1. Title and application.- These rules may be called THE REMOVAL OF ENCROACHMENTS ON LANDS OR BUILDINGS BELONGING TO RELIGIOUS INSTITUTIONS RULES.

2. Definitions. - In these rules, unless the context otherwise requires-

(a) 'Act' means the Madras Hindu Religious and Charitable Endowments Act, 1959. (Madras Act XXII of 1959)

¹[(b) "Encroachers" means a person who occupies unauthorized, any land or building belonging to any religious institution wherever it is situated or any sacred tank, spring, or water course, wherever it is situated and belong to a religious institution, or any space within or outside the prakarams, mandapams, courtyard or corridors of the religious institutions.]

3. Form and service of notice:- (1) Every notice under Secs.78 (2), 79(3), 80(2) and 81(3) shall be in Forms A to D in the Schedule to these rules and shall be served on the encroacher, lessee, licensee or mortgagee, as the case may be, by registered post with acknowledgement due. A copy of the notice shall be communicated to the trustees of the institution also.

¹[(2) In case of refusal or evasion to receive the notice sent for service in the manner specified in sub-rule (1), notice shall be affixed on the front door or any conspicuous place of the residence of the person to whom the notice was sent; if the person has changed his residence, the notice shall be sent to the changed address, if it is known, or a copy of the notice shall be affixed on the front door or other conspicuous place of the last known address. In addition to the affixture of such notice in the manner specified above, such notice shall also be published by affixture in a conspicuous place of the property which forms part of these proceedings, so as to complete the service. Such affixture shall be deemed to be sufficient notice to the persons concerned specified in sub-rule (1)].

4. Contents of notice under Sections 78(3) and 80(3):- (1) The notice under Secs.78(3) and 80 (3) of the Act shall provide 30 days time for the show cause and 15 days time for making an order under Secs.78(2) and 80 (2) of the Act. ²[The Joint Commissioner or the Deputy Commissioner] may grant such further time as he deems fit.

(2) The notice shall specify the land, or space or building or the other details covered by the encroachment proposed to be removed as specified under Sec.78 (2) of the Act and state the boundaries with survey numbers, if any, extent and such other relevant particulars as may be necessary to identify the land.

5. Enquiries:- The provisions of the rules issued under Sec.116 (iii) shall apply to the conduct of enquiries under Secs.78 (4) to 81 (3) of the Act and the provisions of the Code of Civil Procedure and the Civil Rules of Practice and Circular Orders shall apply, as far as practicable to appearance of pleaders and to affidavits, production of documents, examination of witnesses, taking of oral evidence, proof by affidavits, filing of exhibits, issue of Commissions, return of documents admitted in evidence and other connected matters.

6. Issue of orders on removal of encroachments. - Every order of ³[the Deputy Commissioner, the Joint Commissioner and the Commissioner regarding removal of encroachments, or termination of lease, license, mortgage with possession, etc., shall be communicated to the trustee of the institution and the encroacher, lessee, licensee or mortgagee, as the case may be, by registered post with acknowledgement due. A copy of the order shall also be published in the notice-board or any conspicuous place of the institution to which the property belongs and in any daily newspaper in the regional language having wide circulation in the locality ⁴[in addition to the affixture of such orders in the manner specified above, such orders shall also be published by affixture in a conspicuous place of the property which forms part of these proceedings so as to complete the service.]

1. Sub-rule (2) substituted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments dated 15th July, 1997.

2. The words "Joint Commissioner or" added by G.O.Ms. No.200 CT & RE, dated 30th May, 1996.

3. Substituted by G.O. No. 275, CT & CE dated 16th July, 1997

4. The provision newly added by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

THE SCHEDULE**FORM A**

[See Rule 3 (1).]

Notice under Sec.78 (2) of the Tamil Nadu Hindu Religious
and Charitable Endowments Act, 1959.

BEFORE ¹[THE DEPUTY COMMISSIONER, JOINT COMMISSIONER.

DIVISION AT

NO. OF 19

SUBJECT. - Encroachment land/tank/building

district

taluk

village/town

temple/math

Removal of.

To

(Name, description and place of residence)

Whereas I have reason to believe that the encroachment over the land/tank/ building
described below and belonging to Sri temple, village
taluk district caused on account of should be removed.

Take notice that if you have any cause to show why the said encroachment should not be
removed, you should appear in person or by counsel duly instructed with proof, in the Court on
the day of 19.... when the aforesaid matter will be heard and disposed of, *ex-parte* and it
will be presumed that you consent to the removal of the said encroachment.

Given under my hand and the seal of the Court, this day of 19

Sd. Joint Commissioner, Deputy Commissioner

DESCRIPTION OF ENCROACHMENT

Serial Number	Survey Number	Land Taluk/ Building	Extent	Boundaries	Remarks
(1)	(2)	(3)	(4)	(5)	(6)

FORM B.

[See Rule 3 (1).]

Notice under Sec.78 (2) of the Tamil Nadu Hindu Religious
and Charitable Endowments Act, 1959.

BEFORE THE COMMISSIONER, HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS (ADMINISTRATION) DEPARTMENT, MADRAS

SUBJECT.-Encroachment – Land/tank/building

District

Taluk

village/town

temple/

math appeal from the order of the ¹[Joint commissioner, Deputy Commissioner] Hindu Religious

1. The words "joint commissioner or" added by G.O. Ms. No.200 CT & RE, dated 30th May, 1996.

and Charitable Endowments, Division.

At in No. 19 date

To

(Name description and place of residence)

Take notice that an appeal from the order of the ¹[Deputy Commissioner, Joint Commissioner, Division at No. dated has been presented by and registered in this court and that the day of 19 has been fixed for hearing of this appeal.

If no appearance is made by yourself in person or by your counsel, the appeal will be heard and decided in your absence.

Given under my hand and seal of the Court, this 19.

Commissioner.

FORM C

[See Rule 3 (1)]

Notice under Sec.80(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

BEFORE THE ¹[JOINT COMMISSIONER/DEPUTY COMMISSIONERS.]
DIVISION AT NO. OF 19

SUBJECT. -Eviction – Lessee / Licensee / Usufructory /mortgagee

Taluk village / town temple/math's.

To

(Name, description and place of residence)

Whereas I have reason to believe that the artistic appearance of the religious atmosphere of the temple/math village/town taluk district has been marred or is likely to be by the lease, licence or mortgage with possession of the land / tank / building or mantapam described below and the lease, license or mortgage should be terminated.

Take notice that if you have any cause to show why the lease, license of the land, tank, building or mantapam should not be terminated or the mortgage cancelled. You should appear in person or by a counsel duly instructed with proof, in the Court on day of 19, when the aforesaid matter will be heard and disposed of, failing which the matter will be heard, and disposed of *ex-parte* and it will be presumed that you consent to the termination of lease, license, or mortgage of the land, tank, building or mantapam.

Given under my hand and the seal of the Court, this day 19

¹[Joint Commissioner/Deputy Commissioner.]

1. The words "joint commissioner or" added by G.O. Ms. No.200 CT & RE, dated 30th May, 1996.

FORM D*[See rule 3 (1)]*

Notice of appeal under section 81 (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

BEFORE THE COMMISSIONER OR DEPUTY COMMISSIONER

SUBJECT.- Eviction – Lessee / Licensee / Usufructuary mortgage
Taluk village / town temple/ maths.

Appeal from the order of the ¹[The Joint Commissioner/Deputy Commissioner] at in No. dated

To

(Name, description and place of residence)

Take notice that an appeal from the order of ¹[The Joint Commissioner the Deputy Commissioner,]

Division at No. dated has been presented by

and registered in this Court and that day of 19 has been fixed for hearing of this appeal. If no appearance is made by yourself in person or by your counsel, the appeal will be heard and decided in your absence.

Given under my hand and seal of the Court, this day of 19

Commissioner.

**THE TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
CONSTITUTION OF TRIBUNALS RULES, 1965.**

[Published in the Fort St. George Gazette, Part V, page 531, dated 19th May, 1965.]

[G.O. Ms. No.1447, Revenue, dated 30th April, 1965]

S.R.O. No. A-509 of 1965.- In exercise of the power conferred by Sub-sec.(2) of Sec.116 read with Sub-secs(2) and (4) of Sec.83 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:

1. Short title: - These rules may be called "THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS CONSTITUTION OF TRIBUNAL RULES, 1965."

2. Constitution: - Each tribunal shall consist of one person only, who shall be an officer of the Revenue department not below the rank of a Deputy Collector, as may be nominated by the District Collectors.

3. Officer appointed as Tribunal. - Every Officer appointed to constitute the Tribunal shall be a person professing Hindu Religion.

4. Making of award. - Every award of the Tribunal shall be in writing and shall specify the grounds on which it is based.

1. The words "Joint commissioner or" added by G.O. Ms. No.200 CT & RE, dated 30th May 1996.

APPOINTMENT OF AUDITORS RULES, 1961.

[Published in the Fort St. George Gazette, part V, page 870, dated 9th August, 1961.]

[G.O. No. 3029, Revenue, dated 30th July, 1961.]

S.R.O. No. A-826 of 1961.- In the exercise of the powers conferred by clause (i) of Sub-Sec.(2) of Sec.116 read with Sub-sec(2) of Sec.87 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. These rules may be called "THE APPOINTMENT OF AUDITOR RULES."

2. Audit of accounts of all religious institutions and charitable endowments under the control of Hindu Religious and Charitable Endowments (Administration) Department, shall be done by independent auditing created in the Hindu Religious and Charitable Endowments (Administration) Department, which will be under the immediate control of a Chief Audit Officer and under the ultimate control of the commissioner, Hindu Religious and Charitable Endowments (Administration) Department.

2. The Audit of the accounts of the religious institutions, the annual income of which is not less than one thousand rupees, may be made by the Local Fund audit Department of the Government or by such other private auditors as may be appointed by the Commissioner, with the approval of the Government from time-to-time.

DETERMINATION OF SURCHARGE RULES.

[Published in the Fort St. George Gazette, Part V, page 870, dated 9th August, 1961]

S.R.O.No. 827 of 1961.- In exercise of the power conferred by Clause (i) of Sub-sec.(2) of Sec.116 read with Sec.90 of the Madras Hindu Religious and Charitable Endowments Act, 1959(Madras Act XXXII of 1959), the Governor of Madras hereby makes the following rules.

RULES

1. These rules may be called "THE DETERMINATION OF SURCHARGE RULES."

¹[2(1) The notice referred in Sub-sec.(2) of Sec.90 shall be sent ²[by the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be] to the trustee or other persons concerned by registered post, with acknowledgement due and shall specify a date before which the explanation shall be submitted and the date on which the explanation be taken into consideration.

(2) Where ²[the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be] who issues the notice referred to in Sub-rule (i) is satisfied that the trustee or other persons concerned is keeping out of the way for the purpose of avoiding service, or that notice cannot be served in the ordinary way for any other reason, may order the notice to be served by affixing a copy thereof in some conspicuous place in the office and also upon some conspicuous part of the house in which the trustee or other persons is known to have last resided or carried on business or personally worked for gain, or in such other manner as ²[the Commissioner, the joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be] may think fit.

1. Rule 2(1) and (2) substituted for Rule 2(a) and (b) by G.O. Ms. No.506, Commercial Taxes and Religious Endowment, dated 13th December, 1991.

2. Rule 18-A Inserted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

¹[3. On the date fixed for the consideration of the explanation, the trustee or other persons may appear and show cause against the notice by adding evidence. The enquiry into the explanation shall be made by ²[the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be] in the manner prescribed for an enquiry into objection preferred under Secs.63 to 69.]

³[4. Where it is not possible to serve the orders of surcharge on the trustee or other person by registered post as required under Sec.90 (3), it shall be served in the manner laid down in Rule 2(2) and the date of such service shall be deemed to be the date of receipt by him of the orders within the meaning of Sec.90(4)]

⁴[4A. The Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be, after considering the explanation, shall pass an order of surcharge under Sub-sec.(2) of Sec.(2) of Sec.90.]

5. The sum specified in the order of surcharge shall be paid within the time specified in such order.

6. The time allowed for the payment of the sum specified in an order of surcharge shall be calculated-

(a) where the order is served, from the date of service; and

(b) in other cases from the date of affixture of the order as required by Rules 2

and 4.

7. The order of the Government in an appeal under Sec.90 (4) (b) shall be sent to the appellant by registered post.

8. The requisition referred to in Sec.90 (7) shall be in the form appended hereto.

9. If after requisition is made to the Collector under Sec.90 (7) but before the amount is recovered, the order of ²[the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be] under Sec.90 (2) is modified, under Sec.90 (4), the Commissioner can withdraw his original requisition and make a fresh requisition for the recovery of the amount due under the modified order.

10.²[the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner] exercising power under Sec.90 shall cause necessary inquiries to be made in respect of the properties referred to in Sub-sec.(8) with reference to revenue records and encumbrances on immovable properties as disclosed in the records maintained in the registration department.

APPENDIX.

Requisition under Sec.90 (7) of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959.)

To

The Collector,

District.

Whereas the person described in Column (2) of the Schedule below has made default in

1. Rule 3 of Principal rules substituted by new Rule 3 by G.O. Ms.506, Commercial Taxes Religious Endowments, dated 13th December, 1996.

2. Rule 18-A Inserted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

3. Rule 4 substituted by S.R.O. No.A.855 of 1963 .

4. Rule 4-A added G.O. No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1995.

complying with the order of surcharge made against him under Sec.90 (2) to pay the amount mentioned in Column (5) of the said Schedule, you are hereby requested to recover the said amount from him as if it were an arrears of land revenue and pay the same to the trustee of the institution mentioned in Column (3) thereof.

THE SCHEDULE

Number	Name, father's name and address	Name of religious institution concerned	Number and date of order and date of service, refusal or affixure thereof	Amount recoverable
(1)	(2)	(3)	(4)	(5)

Signed.....

¹[XXX]

Commissioner ¹[Joint or Deputy Commissioner or
Assistant Commissioner], Hindu Religious Endowment, Madras,

Amendment Particulars

Rule 2 of Principal Rules

2. The notice referred to in Sec.90(2) shall be sent to the trustee or other person concerned by registered post, acknowledgement due and shall fix the date by or on which the explanation shall be submitted and the date on which the explanation will be taken into consideration. If the Commissioner, the Deputy Commissioner or the Assistant Commissioner, as the case may be, is satisfied that the person to whom a notice is sent willfully absents himself from his residence or refuses to receive the notice, he may order that the notice shall be affixed on the front door or other conspicuous place in his usual place of residence. If the person has changed his residence, the notice shall be sent to the changed address if it is known, or a copy of the notice shall be affixed on the front door of or other conspicuous place of the last known residence. On such affixure he may declare that there has been sufficient service.

1. Rule 2(a) and (b) substituted Rule 2 of Principal Rules by S.R.O.No.A855 of 1963.

Rule 2(a) and (b) as amended by S.R.O.No.A855 of 1963.

2(a) The notice referred to in Sub-sec.(2) of Sec.90 shall be sent to the trustee or the other persons concerned by registered post, acknowledgement due and shall specify a date before which the explanation shall be submitted and the date on which the explanation be taken into consideration.

(b) Where the Commissioner, the Deputy Commissioner, or the Assistant Commissioner as the case may be is satisfied that the trustee or other person concerned is keeping out of the way for the purpose of avoiding service or that for any other reason, the notice cannot be served in the ordinary way, he may order the notice to be served by affixing a copy thereof in some conspicuous place in the office and also upon some conspicuous part of the house (if any) in which the trustee or other person is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Commissioner or the Deputy Commissioner or Assistant Commissioner may think fit.

2. Now the present Rule 2(1) and (2) substituted for Rule 2(a) and (b), by G.O.Ms.No.506, Commercial Taxes and Religious Endowments dated 13th December, 1991.

In Rule 2 Sub-rules (1),(2) and (3), the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner, as the case may be substituted for the expressions "The Secretary to the Tamil Nadu Temple Administration Board, or by the Secretary to the District Committee" by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated 16th July 1997.

Rule 3 of Principal Rule

3. On the date fixed for the consideration of the explanation, the trustee or other person may appear and show cause against the notice by adducing evidence. The inquiry into the explanation shall be made in the manner prescribed for an inquiry into the objections preferred under Secs.63 to 69.

1. Rule 18-A Inserted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

3. The Rule 3 of principal rules substituted by new Rule 3 by G.O.Ms.No.506, Commercial Taxes and Religious Endowments dated 13th December, 1991.

Rule 4 of Principal Rule

4. The order of surcharge shall be sent by registered post to the trustee or the other person concerned and if he evades service, the order shall be affixed to the front door of his last known place of residence and on such affixture he shall be deemed to have received the order within the meaning of Sec.90(4).

4. Rule 4 substituted by S.R.O.No.A855 of 1963.

5. Rule 4-A added by G.O.Ms.No.506, Commercial Taxes and Religious Endowment, dated 13th December, 1991.

⁵[4A. The records of enquiry made by the Secretary to the Tamil Nadu Temple Administration Board or as the case may be, by the Secretary to the District Committee shall be placed before the Tamil Nadu Temple Administration Board or the District Committee as the case may be, for its consideration for passing an order or surcharge under Sub-sec.(2) of Sec.90.]

6. Rule 4A added by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

8. In Rule 9, the Commissioner or the Deputy Commissioner or Assistant Commissioner as the case may be substituted for the expression "Tamil Nadu Temple Administration Board" by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated 16 July, 1997.

8. In Rule 10, the Commissioner or the Deputy Commissioner or Assistant Commissioner as the case may be substituted for the expression "Tamil Nadu Temple Administration Board" by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated 16 July, 1997.

8. The words "the Commissioner. Hindu Religious Endowments Madras" substituted by the words "Secretary to the Tamil Nadu Temple Administration Board, Madras" by *Ibid*.

ASSESSMENT, LEVY AND RECOVERY OF CONTRIBUTION COSTS RULES, 1960.

[Published in the Fort St. George Gazette, Part V, page 685, dated 21st December, 1960]

[G.O. Ms No. 4920, Revenue, 30th November 1960]

S.R.O.No. A-713 of 1960.- In exercise of the powers conferred by Clauses (i) and (xv) of Sub-sec.(2) of Sec.116, read with Sub-secs.(1), (2) and (3) of Sec.94, and Clause (1) of Sec.92 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. These rules may be called "THE ASSESSMENT, LEVY AND RECOVERY OF CONTRIBUTION COSTS RULES."

2. (1) Every religious institution shall, from the income derived by it, pay to the Commissioner annually a contribution calculated on a percentage of its income at the rates specified in the table below:-

¹[The Table

Item	Annual Income of the Religious Institution	Rate of Contribution
(i)	If the annual income of the religious institution does not exceed Rs.5,000	Nil
(ii)	If the annual income of the religious institution exceeds Rs. 5,000 but does not exceed Rs. 20,000	4
(iii)	If the annual income of the religious institution exceeds Rs. 20,000 but does not exceed Rs. 60,000	5
(iv)	If the annual income of the religious institution exceeds Rs. 60,000 but does not exceed Rs. 2,00,000	6

1. Table in Rule 2, Sub-rule (1), substituted by G.O.Ms.No.275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

(v)	If the annual income of the religious institution exceeds Rs. 2,00,000 but does not exceed Rs. 5,00,000	7
(vi)	If the annual income of the religious institution exceeds Rs. 5,00,000/-	11

Notes: (1) This rate will be adopted for levy of contribution from Fasli 1407 onwards.]

2A. After arriving at the income as calculated under Rule 2, a further sum shall be deducted in lieu of pooja expenses at the rates specified in the Table below.

¹[APPENDIX

In exercise of the powers conferred by Sec.4 of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959, (Tamil Nadu Act 22 of 1959) and in supersession of the Revenue Department Notification II-I No. 3806, dated the 19th August, 1964, published at page 1306 of part II Section I of the Fort St. George Gazette dated the 30th August, 1961, the Governor of Tamil Nadu hereby exempts the religious institutions the annual income of which is less than rupees two thousand from payment of contribution and audit fees under Sub-secs.(1) and (2) of Sec.92 of the said Act from Fasli 1397 onwards (*i.e* 1st July 1978 onwards)].

²[THE TABLE

Item No.	Income of the Religious Institution	Amount of deduction
(1)	(2)	(3)
(i)	Income exceeding Rs. 5,000 but not exceeding Rs. 20,000/-	Rs. 2,000 or the cost of oru kala pooja, whichever is less
(ii)	Income exceeding Rs. 20,000 but not exceeding Rs. 60,000	Rs.3,000/- or the actual cost of oru kala pooja, whichever is less
(iii)	Income exceeding Rs. 60,000 but not exceeding Rs. 1,00,000	Rs. 5,000 or the actual cost of oru kala pooja whichever is less
(iv)	Income exceeding Rs. 1,00,000 but not exceeding Rs. 2,00,000	Rs. 7,500 or the actual cost of oru kala pooja whichever is less
(v)	Income exceeding Rs. 2,00,000	Rs. 10,000 or the actual cost of oru kala pooja whichever is less.]

2B. Every religious institutions shall from the income derived by it, pay to the commissioner, annually, audit fees, calculated on a percentage of the income at the rate specified in the table below.

THE TABLE

Item No.	Annual Income of the Religious Institution	Rate of audit fees (%)
(1)	(2)	(3)
(i)	If the annual income of the religious institution does not exceed Rs. 5,000/-	Nil

1. Appendix and Table added by G.O. Ms. No. 749, Commercial Taxes and Religious Institutions dated 6th July, 1987.

2. Table in Rule 2A substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowment dated 16th July, 1997.

- (ii) Income exceeds Rs. 5,000 but does not exceed Rs. 5,00,000 1.5%
- (iii) Income exceeds Rs. 5,00,000 4%

Note: This rate will be adopted for levy of audit fees from fasli 1407 onwards.]

(2.) "Income" under these rules means gross income minus the amounts specified below:

(a) Revenue paid to the government and cesses paid to panchayat union or panchayats or municipality or the Corporation of Madras (presently Chennai).

(b) Taxes and Licences fees paid to [Panchayat Unions], Panchayat Municipalities or the Corporation of Madras.

(c) Expenditure incurred for the following purposes connected with the direct cultivation of the land held by the religious institution not exceeding [25] per cent, of the income derived from such property:—

- (i) maintenance of or repairs to irrigation works,
- (ii) seeds or seedlings,
- (iii) manure,
- (iv) maintenance of cattle for cultivation,
- (v) maintenance and repair of agricultural implements, and
- (vi) wages for ploughing, sowing, watering, transplantation, harvesting, thrashing and other agricultural operations.

(d) Expenditure on sundry repairs to buildings not exceeding 10 per cent of the annual rent derived therefrom or the actual expenditure, whichever is less.

(e) Share of receipts from "archanai" fees or offerings, which the servants of the religious Institutions are entitled to receive under any order of Court of Law or recognized by custom or usage.

(f) Cost of collection of rents not exceeding ten per cent, of the amount actually collected in cases where the religious institution employs special staff solely to attend to the work relating to collection of rents due to the religious institutions, in cases where such special staff is not appointed for such purpose a proportionate amount may be allowed with reference to the nature of work turned out in collections; and

(g) Sale-proceeds of immovable properties and rights if such proceeds are reinvested to earn income for the religious institution.

Explanation(1):—The following items of receipt shall not be deemed to be "income" for purposes of this rule:—

- (i) Advances and deposits recovered and loans taken or recovered;
- (ii) Deposits made as security by employees, lessees or contractors and other deposits, if any;
- (iii) Withdrawals from Banks or of investments;
- (iv) Recovery of costs awarded by Courts;
- (v) Sale-proceeds of jewels, vahanams, provision, livestock purchased for use of religious institutions and other articles belonging to the religious Institutions;
- (vi) Donations in cash or in kind made by the donors as contributions to capital;
- (vii) Ubayams or contributions of a casual nature received in cash or in kind for a specific service in the religious institution and spent for such service; and

(viii) Actual dryage of the receipts of agricultural produce or other articles from immovable properties or 2 per centum of such receipts received during the fasli year, whichever is less.

Note.—Ubayams of a casual nature means and includes only amounts paid or articles given in 'kind by any person such as the performance of some specific service in commemoration of any important event in one's life and the like and not connected with the religious institution. This does not include ubayams given in cash or in kind for celebration of any customary weekly, monthly, or annual festivals in religious institutions.

Explanation (2).—In respect of any remunerative undertaking of a religious institution, Only the net profit shall be taken as income. In respect of unremunerative undertakings of a religious institution, such as a school, college, hospital, poor home or orphanage; and other similar institutions, the grants given by Government or a local body or donations received from the public or fees collected from pupils, shall not be taken as income.

Explanation (3).—Receipts in kind other than those referred to in items (v) and (vi) in *Explanation (1)* shall be deemed to accrue as income on the date of the sale thereof and shall be valued at the amount realized by such sale.

Explanation (4).—Receipts in kind from immovable properties and consumed or utilized by the religious institution shall be valued at the market prices of the commodities.

3. The assessment of contribution-payable by a religious institution shall be made for each fasli year on the basis of the income derived by it during the previous fasli year—

4. The trustee or the Chairman of the Board of Trustees of every religious institution, shall submit to the Commissioner on or before the 31st of August in each fasli year—

(a) a statement showing the receipts and charges (cash and kind) relating to the fasli year immediately preceding under each head of account;

(b) a statement showing the amounts claimed as deductions under items (a) to (g) in Sub-rule (2) and the assessable income;

(c) a statement showing the expenditure incurred under the various items under "cost of production" and the income derived from property in the direct cultivation of the religious institution; and

(d) a statement showing the special staff employed solely for work relating to collection of rents due, the designation of the different posts, the monthly pay and allowances of the members of such special staff and the amount of rents collected by them.

5. The forms in which the statements referred to in Rule 4 should be submitted, shall be such as may be specified by the Commissioner.

6. If the trustee or the Chairman of the Board of Trustees of any religious institution fails to submit the statements referred to in Rule 4 on or before the 31st August, in each fasli year or within such further time as may be allowed by the Commissioner or submits statements which, in the opinion of the Commissioner are not correct or complete, the Commissioner may assess the income of such institution to the best of his judgment and the amount assessed shall be deemed to be the income of the religious institution for the purpose of Sec.92(1) of the Madras Hindu Religious and Charitable Endowments Act, 1959.

7. If in any year, a religious institution is unable to pay the contribution due to *bona fide* financial difficulties caused by mismanagement of the previous trustees or due to other reasons beyond its control, the Commissioner may, if the amount of the annual contribution does not exceed Rs. 300 (Rupees three hundred only) for reasons to be recorded in writing, by order,

waive the collection of such amount in full or in part or direct that the contribution or part of it, be collected in instalments not exceeding ten:

Provided that, in cases where the annual contribution exceeds Rs. 300, the Commissioner shall obtain the sanction of the Government before passing orders under this rule.

8. The amount of contributions and audit fees payable under Sub-secs.(1) and (2) respectively of Sec.92 and the costs and expenses payable under Sec.93 by a religious institution shall be communicated to the trustee thereof or to the Chairman of the Board of Trustees, as the case may be, by a notice which shall be delivered in person or by registered post, acknowledgment due.

Explanation: In arriving at the amount payable by a Religious institution, fractions of a rupee, which are not in multiples of 5 naya paise, shall be rounded of to the nearer multiple of 5 naya paise.

9. Where an amount referred to in Rule 8 above has escaped assessment, the Commissioner shall issue a notice as laid down in the proviso to Sec.94(i) within a period of five years following the year to which such amount relates.

10. Where the institution has an Executive Officer or manager appointed under the provisions of a scheme or under any provision of the Act, the notice may be served on him in the manner laid down in Rule 8.

11. When the notice is not served either because of refusal to receive it or because of evasion of service, it may be served in the manner laid down in Rule 8 on any servant or other person who is in charge of the institution.

12. If the person in charge mentioned in Rule 11 refuses or evades service, the notice shall be affixed to the front door of the temple or math or of the temple or math to which the specific endowment is attached.

13. The time allowed under Sub-sec.(2) of Sec.94 for preferring objections or for the payment of the amount shall be calculated from the date of receipt of such notice by the trustee or other person referred to in Rules 8, 10 and 11 and in case of refusal or evasion, from the date of refusal or from the date of the affixture under Rule 12, as the case may be.

14. Every objection preferred by a trustee or the other person referred to in Rule 11 to a notice issued under Sec.94 (i) shall contain a statement in a concise form of the material facts on which he relies.

15. Where a trustee or the other person bases his objection or relies, as evidence in support thereof, upon any document in his possession or power, he shall annex such document or an authenticated copy thereof to the objection.

16. Where any such document is not in the possession or power of the trustee or the other person, he shall, if possible, state in whose possession or power it is.

17. Where a copy of document is furnished under Rule 15, the trustee or the other person shall, if so required by the Commissioner, produce or cause to be produced the original.

18. The requisition referred to in Sub-sec.(3) of Sec.94 shall—

(i) if it relates to the recovery of contributions including audit fees payable under Sec.92 be in Form I annexed hereto; and

(ii) if it relates to the recovery of costs and expenses payable under Sec.93 be in Form II annexed hereto.

19. If in any year a Religious institution is unable to pay the contribution or audit fee or both, due to, *bona fide* financial difficulties caused by mismanagement of the previous trustees or

due to other reasons beyond its control, the Commissioner may, if the amount does not exceed Rs. 300(Rupees Three hundred only) in respect of annual contribution and Rs. 150(Rupees one hundred and fifty only) in respect of audit fee, for reasons to be recorded in writing, by order, waive the collection of such amount in full or in part or direct that such amount or part thereof be collected in instalments not exceeding 10;

Provided that, in cases where the annual contribution and Audit fee due exceed Rs. 300 and Rs. 150 respectively the Commissioner shall obtain the sanction of the Government before passing orders under this rule.

20 (a). In respect of any miscellaneous demand issued by the Commissioner to recover the costs and expenses incurred on legal proceedings in respect of any religious institutions, if the institution is unable to pay the same due to *bona fide* financial difficulties, or to the other reasons beyond its control, the Commissioner may, if the amount of the miscellaneous demand does not exceed Rs. 500(Rupees five hundred only) for reasons to be recorded in writing by order waive the collection of such amount in full or in part or direct that such amount or part thereof be collected in instalments not exceeding ten.

(b) If the amount of the miscellaneous demand exceeds Rs. 500/- (Rupees five hundred only) the Commissioner may, with the previous sanction of the Government, waive the collection of such amount in full, or in part direct that such amount or part thereof be collected in instalments not exceeding ten.

NOTE:(1) Full details such as designation of the persons who does actually collection work, nature of the actual work done by him, his salary and the amount collected by such staff and ten percent of the amount collected should always be furnished.

(1) Regarding cost of production, the total extent of pannai cultivation, income derived therefrom, ten percent of the same, details, regarding nature of repairs to irrigation works and cost should be furnished in addition to cost of seedlings, manure, maintenance of ploughing, cattle,etc.

(2) Money order commission, insurance charges, etc. for remitting the contributory commission for cashing cheques or drafts sent by the trustees should be borne by the trustees themselves.

(3) The number of demand, the name of the temple and the village, taluk and district in which it is situated should be mentioned in making the remittance or sending communications with reference to the demand.

(5) Receipt will not be issued for remittance made through the revenue department.

ANNEXURE

FORM I.

Requisition under Sub-sec.(3) of Sec.94 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), for the recovery of contributions including audit fees payable under Sec.92 of the said Act.

To

The Collector,
district

Whereas the persons described in the fourth column of the schedule annexed hereto being trustees of the religious institutions mentioned in the corresponding entries in the third column thereof, have failed to pay out of the funds of the said institutions, the amounts mentioned against

their names in the sixth column of the said schedule, being contributions payable by them under Sec.92 of the said Act, you are hereby requested to recover the said amounts and to pay the same to me. In accordance with the provision of the said Sec.94.

SCHEDULE

Table

Serial Number	Taluk and village	Name and religious institution	Name, father's name and address of the trustee or other person	Fasli to which the contribution relates	Amount of the contribution showing separately the sums levied under Sec.92 (1) under Sec.92 (2) (contribution for meeting the cost of audit)	Demand number and date	Date of service of demand
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(Signed) _____,

Commissioner, Hindu Religious and Charitable Endowments, Madras.

FORM II

Requisition under Sub-sec.(3) of Sec.94 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), for the recovery of costs and expenses, payable under Sec.93 of the said Act.

To
The Collector
district

Whereas the persons described in the fourth column of the schedule annexed hereto, being trustees of the religious institutions mentioned in the corresponding entries in the third column thereof, have failed to pay out of the funds of the said institutions, the amounts mentioned against their names in the sixth column of the said schedule being costs and expenses payable by them under Sec.93 of the said Act, you are hereby requested to recover the said amounts and to pay the same to me. In accordance with the provisions of the said Sec.94.

SCHEDULE.

Serial Number	Taluk and village	Name and religious institution	Name, father's name and address of the trustee or other person	Suit, petition or other proceedings in respect of which the costs and expenses, were incurred	Amount of the cost and the expenses	Demand number and date	Date of service of demand
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(signed) _____,
Commissioner, Hindu Religious and Charitable Endowments, Madras.

Amendment Particulars

Table in Rule 2 of Principal Rules

TABLE

Item No.	Annual income of the religious institution	Rate of contribution
(1)	(2)	(3) (Per Cent)
(i)	If the annual income of the religious institution does not exceed Rs.1000	2
(ii)	If the annual income of the religious institution exceeds Rs.1000 but does not exceed Rs.5000	3
(iii)	If the annual income of the religious institution exceeds Rs.5000 but does not exceed Rs.20000	4
(iv)	If the annual income of the religious institution exceeds Rs.20000 but does not exceed Rs.60000	5
(v)	If the annual income of the religious institution exceeds Rs.60000 but does not exceed Rs.200000	6
(vi)	If the annual income of the religious institution exceeds Rs.200000	7

NOTE (1).- This rate will be adopted for levy of contribution from fasli 1370 onwards.

¹[TABLE

Item No.	Income of the religious institutions as calculated under rule	Annual deduction
(1)	(2)	(3)
(i)	Income not exceeding Rs.5,000	Rs.1,000 or the actual cost of oru kala pooja whichever is less
(ii)	Income exceeding Rs.5,000 but does not exceed Rs. 20,000	Rs. 2,000 or the actual cost of oru kala pooja whichever is less
(iii)	Income exceeding Rs.20,000 but does not exceed Rs. 60,000	Rs. 3,000 or the actual cost of oru kala pooja whichever is less
(iv)	Income exceeding Rs.60,000 but does not exceed Rs. 1,00,000	Rs. 5,000 or the actual cost of oru kala pooja whichever is less
(v)	Income exceeding 1,00,000 but does not exceed Rs. 2,00,000	Rs. 7,500 or the actual cost of oru kala pooja whichever is less
(vi)	Income exceeding Rs. 2,00,000	Rs. 10,000 or the actual cost of oru kala pooja whichever is less

²[TABLE

Item number	Annual income of the religious institution	Rate of contribution (%)
(1)	(2)	(3)
(i)	If the annual income of the religious institution does not exceed Rs.2,000	Nil
(ii)	If the annual income of the religious institution exceeds Rs. 2,000 but does not exceed Rs.5,00,000	1 ½
(iii)	If the annual income of the religious institution exceeds Rs.5,00,000	4

Note: This note will be adopted for levy of audit fees from fasli 1397 onwards

1. Table in Rule 2A added by G.O. Ms. 749, Commercial Taxes and Religious Endowments Department dated 6th July, 1987.

2. Table in Rule 2B added by G.O. Ms. 749, Commercial Taxes and Religious Endowments Department dated 6th July, 1987.

EXEMPTION FOR PAYMENT OF CONTRIBUTION AND AUDIT FEES NOTIFICATION

[G.O. Ms. No. 749, CT & CE Dept. dated 6th July, 1987.]

NOTIFICATION

In exercise of the powers conferred by Sec.4 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) and in supersession of the Revenue Department Notification 11-1 No. 3806, dated 19th August, 1961, Published at Page 130 part II, Section 1 of the Fort St. George Gazette, dated the 30th August, 1961, the Governor of Tamil Nadu hereby exempts the religious institution, to the annual income of which is less than Rupees Two thousand, from payment of contributions and audit fees under Sub-secs.(1) and (2) of Sec.92 of the said Act from fasli 1397 onwards *i.e.*, 1st July, 1987 onwards.

[Again by G.O. Ms. No. 275, CT & CE, the ceiling has been increased to annual income of Rs. 5,000 for exemption.]

ADMINISTRATION OF TAMIL NADU RELIGIOUS AND CHARITABLE ENDOWMENTS COMMON GOOD FUND RULES, 1962.

[G.O. Ms. No. 1667, Revenue, dated 12th April 1962.]

1. Short Title: - These rules may be called "THE ADMINISTRATION OF THE HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS COMMON GOOD FUND RULES, 1962.

¹2. Crediting the moneys received towards the fund: - All the moneys received as contribution towards the Hindu Religious and Charitable Endowments Common Government Fund, including the amount to be transferred thereof from the surplus remaining in the Tamil Nadu Hindu Religious and Charitable Endowments Administration Fund by the Commissioner, under Sec.97 shall be credited to the Hindu Religious and Charitable Endowments Common Good Fund. The commissioner shall be the authority to operate on this Personal Deposit Account.]

2. The words "The secretary to the Tamil Nadu Temple Administration Board as authorized by the Chairman" Substituted for the words "Shall be operated by the Commissioner, Hindu Religious and Charitable Endowments, Administration Department" by G.O.Ms.No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

³3. The Tamil Nadu ⁴[Commissioner] to Provisionally decide application of funds for the purposes mentioned in Sub-section (1) of Section 97: - On receipt for the purposes mentioned in Sub-sec(1) of Sec.97. The Tamil Nadu Temple Administration Board may, after due consideration provisionally decide the purposes for which the amounts requested or part thereof may be utilized. It shall have power also to modify its provisional decision after due enquiry ⁵[held by the Commissioner].

4. Publication of notice inviting objections or suggestions to grant aid: - A notice inviting objections or suggestions relating to his proposal to grant aid shall be published by affixture:

1. Rule 2 substituted by G.O. Ms. No. 275 commercial Taxes and Religious endowment dated 16th July, 1997.

2. Rule 3 substituted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

3. The words "the Commissioner" substituted for the words Tamil Nadu Temple Administration Board" by G.O. Ms. No.275, CT&CE dated 16th July, 1997.

4. Substituted for the Expressions - "hold by the Secretary to the Tamil Nadu Temple Administration Board" by *ibid.*

(a) On the notice-board or the front door of the institution requiring aid; and

(b) On the notice-board of the officer of the Joint/Deputy commissioner and of the Assistant commissioner having jurisdiction over the area in which the institution is situated.

5. Contents of Notice. – The notice referred to in Rule 4 shall specify the date which should not be less than thirty days from the date of its publication, within which objections or suggestions may be sent, it shall also specify the date on which the inquiry will be held to consider the objections or suggestions.

¹**[6. Final Orders.** – After enquiry into the objections and suggestions, if any, and after due consideration, ²[the commissioner] shall pass final orders. The order of ²[the Commissioner] shall be published in the same manner as the notice referred to in Rule 1.

Amendment Particulars

Rule 6 Prior to Amendment

6. Final orders of the Commissioner.– After inquiry into the objections and suggestions, if any, and after due consideration the Commissioner shall pass final orders. The order of the Commissioner shall be published in the same manner as the notice referred to in Rule 4.

INSPECTION OF RECORDS, REGISTERS OR DOCUMENTS RULES, 1961.

[Published in the Fort St. George Gazette, part V, page 699, dated 21st June, 1961]

S.R.O.No. A-651 of 1961. – In exercise of the powers conferred by Clause (i) of Sub-sec.(2) of Sec.116 read with Sec.99 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules.

RULES

1. These rules may be called “THE INSPECTION OF RECORDS, REGISTERS OR DOCUMENTS RULES.”

³[2. The Commissioner, a Deputy Commissioner or an Assistant Commissioner intending to inspect any record, or document shall formally communicate such intention to the officer in charge of the public office concerned, indicating the matter to which the record, register or document as the case may be, relates, the time of inspection and such other particulars as may be necessary to enable the officers concerned to make the same available for inspection.

3. The intimation referred to in Rule 2 shall be communicated to the officer concerned at least. One full day (24 hours) in advance of the time of inspection.

4. Such information shall be sent so as to reach the officer concerned on a working day and the inspection shall be done during office hours only.

FORM OF CERTIFICATE RULES

[Published in the Fort St. George Gazette, part V, page 669, dated 21st June, 1991]

[G.O. Ms. No. 2321, Revenue, dated 2nd June, 1961]

S.R.O No. A-652 of 1961.– In exercise of the powers conferred by Clause (b) of Sub-sec.(1) of Sec.101 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:-

1. Rule 6 substituted by G.O. Ms. No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

2. The words “the Commissioner” substituted for the words Tamil Nadu Temple Administration Board” by G.O. Ms. No.275, CT&CE dated 16th July 1997.

3. New Rule 2 substituted for the principal Rule 2, by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 18th July, 1997.

RULES

1. These rules may be called "THE FORM OF CERTIFICATE RULES."
2. The certificate referred to in Clause (b) of Sec.101 shall be in the following form:-

FORM

Certificate under Section 101 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959).

Certified that the following are the properties:-

Math situate_____

Temple situate_____

belonging to the _____ specific endowment attached to the
in the _____ village _____ math or _____ taluk temple situate _____
_____ District.

Specific endowment for the performance of charity

Description of properties-

Lands_

District:

Taluk:

Village:

Survey No.

Extent

Dry

Wet

etc.

(b) House of shops-

Door No.

Name of street

Number of municipal division, if any.

Name of village or town-

(c) Movable-

1.Jewels

2.Vessels

3.Vahanams

4.Other movables.

Given under my hand and seal, this _____ day of

¹[Commissioner, Hindu Religious and Charitable Endowments.
Secretary to Tamil Nadu Temple Administration Board.

²[3.The Commissioner, Hindu Religious and Charitable Endowments, Administration Department, shall issue notice and hold an enquiry as prescribed under the first *proviso* to Sec.101.]

1 .Substituted for the words "Commissioner HR & CE by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments dated, 13th December, 1991.

2. Rule 3 substituted by G.O. Ms. No. 275, CT & CE dated 16th July, 1997.

PANNAI CULTIVATION OF LANDS OF RELIGIOUS INSTITUTIONS RULES, 1961

[Published in the Fort St. George Gazette, part V, page 108, dated 15th October, 1961]

[G.O No. 4055, Revenue, dated 23rd September, 1961]

S.R.O. No. A. 1042 of 1961:- In exercise of the powers conferred by Sub-sec.(1) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. Short Title. - These rules may be called the "PANNAI CULTIVATION OF LANDS OF RELIGIOUS INSTITUTIONS RULES".

2. Institutions shall not resort to Pannai Cultivation: - The Executive Authorities of religious institution shall not resort to Pannai cultivation of lands belonging to religious institutions, that is, cultivation by the Executive Authorities of lands of religious institutions, incurring the cultivation expenditure themselves and engaging their own labour without obtaining the previous approval of the ¹[Joint Commissioner or Deputy Commissioner] of the division where the religious institution is situated.

Explanation: - "Executive Authority" means and includes the trustee or trustees, of the Chairman, Board of Trustees, if he is elected or nominated under the provisions of the Act or the Scheme settled or deemed to have been settled under the Act, in cases where there is no Executive Officer appointed under the Act, or the Executive Officer provided he is declared to be the Executive Authority in charge of the administration of the religious institution.

FORM AND MANNER OF APPLICATION AND APPEALS RULES

[G.O.No. 3158, dated 29th July, 1961]

S.R.O.No. A-894 of 1961.- In exercises of the powers conferred by Clause (ii) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following Rules:-

1. These rules may be called ²[XXX] applications and appeal rules, 1961.

2. All applications, affidavits and memoranda of appeal presented to the Government Commissioner, ³[Joint Commissioner or a Deputy Commissioner] or an Assistant Commissioner, shall be written, type-written or printed, fairly and legibly on substantial white foolscap folio paper and separate sheets shall be stitched together book-wise. The writing or printing may be on both sides of the paper, and numbers shall be expressed in figures..

3.(1) An application to the Government ²[xxx] the Commissioner, ³[the Joint Commissioner, a Deputy Commissioner or an Assistant Commissioner, not being an application under Sec.21 or Sec.114 shall be headed with a cause-titles as set out in Form I appended to these rules. The names of the parties, shall be separately numbered and described as applicants and respondents, as the case may be.

(2) A memorandum of appeal or an application for revision under Sec.21 or Sec.114 shall be headed with a cause-title setting out the name of the authority against whose decision the

1. Substituted for the words "Deputy Commissioner by G.O. Ms. No. 200, CT & CE dated 30th May, 1996.

2. Rule 1 heading, the words "forms and manner of" omitted by G.O. Ms. No.3347 Revenue, dated 23rd November, 1963.

3. The words "of" substituted for the word "in" by *Ibid*.

appeal or application is preferred, the serial number and date of such decision and the names of the parties separately numbered and described as appellants and respondents or as applicants and respondents as the case may be. The cause-title shall be as set out in Form II appended to these rules.

(3) An interlocutory application (*i.e.*), an application in any application or appeal already instituted, shall bear the same cause-title as in the application or the appeal, with the addition of the following at the top:-

Miscellaneous Application No. of 19

In

4. All applications or memoranda of appeal shall state in distinct paragraphs the reliefs sought and the grounds on which they are sought and shall be verified at the foot in the manner provided for the verification of a plaint in the Code of Civil Procedure, 1908.

¹[5]. All application, memorandum of appeal and interlocutory application shall be presented in person by the parties or any of them or their duly authorized pleaders at the office of the secretary to the Government, or the department concerned or that of the Commissioner, ¹[the Joint Commissioner or the Deputy Commissioner] or the Assistant Commissioner, as the case may be or sent by registered post, to the Secretary to Government, of the Department concerned, to the Chief Ministerial officer of the office of ²[the Commissioner, the Joint Commissioner, the Deputy Commissioner or the Assistant Commissioner, as the case may be.]

6. Where an application or memorandum of appeal or other proceeding is presented on behalf of a party by a pleader, such pleader shall file a vakalatnama duly executed and attested in the manner required by the Civil Rules of Practice framed by the High Court of Judicature at Madras. Where a pleader files a vakalatnama in a proceeding, afresh or additional vakalatnama shall not be necessary in interlocutory applications or connected proceedings before the same authority.

7. ²[The party presenting an application or memorandum of appeal to ¹[xxx] of the Commissioner, the Joint Commissioner, the Deputy Commissioner or the Assistant Commissioner as the case may be, shall file along with it as many true copies thereof as there are respondents together with two additional copies. Such copies shall be duly signed by the parties or any of them or their pleader.]

8. Every memorandum of appeal and every application under Sec.21 or Sec.114 for revision of a proceeding, other than a proceeding of a trustee, shall be accompanied by an authenticated or a certified copy of the order and a certified copy of the Annexure, if any, to such order, appealed against or sought to be revised.

1. Rule 5 substituted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated, 16th July, 1997.

2. Rule 7 substituted by G.O.Ms.275, Commercial Taxes and Religious Endowments, dated 16th July, 1992.

¹[FORM I]

Before the Government of Tamil Nadu

Before the Commissioner for Hindu Religious and Charitable Endowments Administration Department.

Before the Joint Commissioner/Deputy Commissioner, Hindu Religious and Charitable Endowments Administration Department.

Before the Assistant Commissioner, Hindu religious and Charitable Endowments Administration Department.

Application No. _____ of 19 _____

Under section _____ of the _____ Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (Tamil Nadu Act 22 of 1959)

Between

Applicant(s)

and

Respondent(s)

²[FORM II]

Form Prescribed in Rule 3(2) of the rules under Sec.116(2) (ii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (Tamil Nadu Act 22 of 1959).

Before the Government of Tamil Nadu

Before the Commissioner for Hindu Religious and Charitable Endowments Administration Department.

Before the Joint Commissioner/Deputy Commissioner, Hindu Religious and Charitable Endowments Administration Department.

Revision/appeal No. _____ of 19 _____

Under section _____ of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (Tamil Nadu Act 22 of 1959)

Between

and

Applicant(s)

Respondent(s)

From the order No. dated of the Commissioner, the Joint Commissioner/Deputy Commissioner/Assistant Commissioner/the trustee of Sri]

Rule 5 of Principal Rules

5. All applications, memoranda of appeal and interlocutory applications shall be presented in person by the parties or any of them or their duly authorized pleaders at the office of the Secretary to the Government concerned or that of the Commissioner or the Deputy Commissioner or the Assistant Commissioner, as the case may be, or sent by registered post to the Secretary to Government in the department concerned or to the Chief Ministerial Officer of the Office of the Commissioner or the Deputy Commissioner or the Assistant Commissioner, as the case may be.

Rule 7 of Principal Rules

7. The party presenting an application or memorandum of appeal to the Commissioner, a Deputy Commissioner or an Assistant Commissioner shall file along with it as many true copies thereof as there are respondents together with two additional copies. Such copies shall be duly signed by the parties or any of them or their pleader.

APPENDIX

FORM I

Form prescribed in Rule 3(1) of the rules under Section 116 (2) (ii) of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959).

Before the Government of Madras

Before the Commissioner for Hindu Religious and Charitable Endowments

Application No. of 19..

Under section of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act XXII of 1959). Between

Applicant(s)

Between

Respondent(s)

-
1. Form I substituted by G.O. Ms. No.275, Commercial Taxes & Religious Endowments, dated 16th July, 1997.
 2. Form II substituted by G.O. Ms. No.275, Commercial Taxes & Religious Endowments, dated 16th July, 1995.

THE HOLDING OF INQUIRIES RULES, 1961

[Published in the Fort St. George Gazette, Part V, dated 30th August, 1961]

S.R.O.No. A-895 of 1961.— In exercise of the powers conferred by Clause (iii) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules.

RULES

1. These rules may be called "THE HOLDING OF INQUIRIES RULES."

2. An Assistant Commissioner acting under the powers delegated to him under Sub-Sec.(3) of Sec.14 or vested in him under any of the provisions of the Act, or the rules made thereunder, ¹[xxx] the Assistant Commissioner, ²[Deputy Commissioner/Joint Commissioner] Commissioner, of the Government, as the case may be (hereinafter referred to as the appropriate authority) acting under the powers vested in it by any of the provisions of the Act or the rules made thereunder may in any proceedings taken by or instituted before it under the provisions of the Act, issue notice to the trustee or the Executive Officer of the religious institution concerned or the respondent in any application filed before it to show cause against any action applied for or proposed to be taken.

3. Where any such proceeding is taken on the application of a trustee or a person having interest and it is deemed necessary by the appropriate authority that notice of the application shall be given to any other person, the applicant shall pay charges in cash for the issue of notice. At such rate as may be ³[afixed from time-to-time] by the Government ¹[xxx] for preparation of process and postal expenses for issue of registered notice to each respondent. If owing to non-service or any other reason a notice has to be issued again, the applicant shall pay the charges for such re-issue at the said rate.

4. Where a party to a proceeding is served with notice and appears or fails to appear, he shall not be entitled to any further notice except where the proceeding is taken upon a date prior to the date to which it is posted and is reposted to another date or where the issue of a fresh notice is required by the Act or the rules made thereunder.

5. Final orders made in such proceedings shall be communicated to the parties or their pleaders, if any, by post.

6. At any stage during the course of any proceeding, the appropriate authority, may, on his or their own motion or at the request of any party, issue summons to any person to give evidence as a witness or to produce any document in his possession and may examine him as a witness or require him to produce such document.

7. Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which and the day on which he is required to attend and also whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes; and any particular document which the person summoned is called on to produce, shall be described with reasonable accuracy.

1. The words "or the Commissioner after obtaining the approval of the Government" omitted by G.O. Ms. No. 3347, Revenue, dated 23rd November, 1963.

2. the words "Temple Administration Board of District Committee" omitted by G.O. Ms. No. 506, Commercial Taxes and Religious Endowments dated 13.th December, 1991.

3. by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 17th April, 1989, Rs. 10 has been fixed.

8. Whoever is summoned to appear and give evidence in a proceeding, shall attend at the time and place mentioned in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it or cause it to be produced at such time and place or cause such document to be sent by registered post so as to reach the authority who summoned him at such time and place.

9. The summons shall be sent by registered post, acknowledgement due. If the appropriate authority is satisfied that the person to whom a summons is sent willfully absents himself from his residence or refuses to receive the summons, he may order that the summons shall be affixed on the front door or other conspicuous place in his usual place of residence. If the person has changed his residence, the notice shall be sent to the changed address, if it is known, or a copy of the notice shall be affixed on the front door of or other conspicuous place of the last known residence. On such affixture he may declare that there has been sufficient service.

10. Service shall in all cases be made in sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which attendance is required.

11. A person summoned either to give evidence or to produce a document shall, along with the summons, be given such batta and Travelling Allowance at the rate fixed in the Civil Rules of Practice framed under the Code of Civil Procedure by the High Court of Judicature at Madras.

12. No summons shall be issued at the instance of a party unless the party first pays to the appropriate authority such sum as in his opinion is sufficient to defray the travelling and other expenses of the person summoned in passing to and from the place at which attendance is required and for one day's attendance or where the summons is for sending a document through post, the charges for so sending the document and the charges for transmitting the amount to witness by postal money order.

13. Where it is necessary to detain the person summoned for a longer period than one day, the party at whose instance he was summoned shall pay to the appropriate authority such sum as he or they may fix to defray the expenses of such detention for such further period and in default of such deposit, the person summoned shall be discharged without being required to give evidence.

14. (1) Where a witness is about to leave the jurisdiction of the appropriate authority or other sufficient cause is shown to the satisfaction of the appropriate authority, why his evidence should be taken immediately, the appropriate authority may, on the application of any party or of the witness, at any time after the institution of the proceeding, take the evidence of such witness.

(2) Where such evidence is not taken forthwith and in the presence of the parties, if any, such notice, as the appropriate authority thinks sufficient, of the day fixed for the examination, shall be given to the parties, if any.

15. The appropriate authority may at any stage of an enquiry recall any witness who has been examined and may put such questions to him, as the appropriate authority may think fit.

16. (1) The appropriate authority may in his or their discretion, upon the application of any of the parties to a proceeding, send for, either from his or their own records or from any other public officer the record of any proceedings and inspect the same.

(2) Every application made under this rule shall be supported by an affidavit showing how the record is material to the proceeding in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the

record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purpose of justice. If the application is granted, the appropriate authority shall address a letter of request to the officer or the Court in whose custody the record is.

(3) The applicant shall deposit in cash the expenses for the transmission of the letter of request and for sending for and the return of the record.

17. All persons who appear in response to the notice issued or published in proceedings under Secs.63, 65, 66, 67, 69, 71 and 72 shall, within the time fixed in the notice or within such further time as may be granted, file written statements containing their objections or suggestions. ¹[The Deputy Commissioner or Joint Commissioner, or the Commissioner, as the case may be,] may, however, permit any person who has not filed a written statement to make representations at the time of inquiry.

18. Any party to the proceedings shall have a right to appear in person or by pleader, to adduce oral and documentary evidence and to apply for summoning witnesses or documents.

19. The ¹[Deputy Commissioner, Joint Commissioner or the Commissioner, as the case may be,] shall record the oral evidence of witnesses. In his own handwriting.

20. The provisions of the Code of Civil Procedure and the Civil Rules of Practice and Circular Order shall apply, as far as practicable, to appearance of pleader and to affidavits, production of documents, examination of witnesses, taking of oral evidence, proof by affidavits, filing of exhibits, issue of commissions, return of documents not admitted in evidence, and other connected matters; and the inquiry shall be made, as far as practicable, in the manner laid down in the said Code for trial of suits.

21.(1) Any person whether a party or not, desirous of receiving back any document produced by him in proceedings before the ¹[Deputy Commissioner or the Joint Commissioner, or the Commissioner, as the case may be, shall, unless the documenting has been impounded, be entitled to receive back the same—

(a) where the proceeding is one in which the order made is not liable to be questioned by a suit in a Court, but is one in respect of which an appeal to the Commissioner or to the Government, as the case may be, is allowed, when the time for preferring the appeal has elapsed without the appeal being preferred or when the appeal, having been preferred, has been disposed of; and

(b) where the proceeding is one in which the order made is liable to be questioned by a suit in a Court, if the time for filing the suit has elapsed without the suit being filed or if a suit has been filed when the suit or an appeal from the decree therein has been disposed of:

Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefore delivers to the ²[Deputy Commissioner, the Joint Commissioner, or Commissioner, as the case may be], a certified copy to be substituted for the original and undertakes to produce the original if required.

(2) An application for the return of a document shall give the date and description of the document, the number of the proceeding in which and the date on which it was produced and the exhibit mark it bears. On the return of a document, a receipt shall be given by the person receiving it.

1. The words Joint Commissioner added in Rules 2,17,19,21 by G.O. Ms. No.275, Commercial and Religious Endowments dated 15th July, 1991.

2. The words Joint Commissioner added in Rules 2,17,19,21 by G.O. Ms. No. 275, Commercial and Religious Endowments dated 16th July, 1997.

INSPECTION OF DOCUMENTS AND LEVY OF FEES RULES, 1961*[Published in the Fort St. George Gazette part V, page 670 dated 21st June, 1961]**[G.O. Ms. No. 2322, Revenue, dated 2nd June, 1961]*

S.R.O. No. A-653 of 1961.—In exercise of the powers conferred by Clause (iv) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:

RULES

1. These rules may be called "THE INSPECTION OF DOCUMENTS AND THE LEVY OF FEES RULES."

¹[2. Any party to a proceeding pending before the Government, the commissioner, the Joint Commissioner, the Deputy Commissioner or Assistant Commissioner desirous of inspecting any record of such proceeding or any other proceeding connected therewith may apply to the Secretary to Government of the department concerned or the Commissioner, the Joint Commissioner, Deputy Commissioner or the Assistant Commissioner, as the case may be, for permission to inspect such record.]

Amendment Particulars

1. Rule 2 of Principal Rules

2. Any party to a proceeding pending before the Government or the Commissioner or a Deputy Commissioner or an Assistant Commissioner or an Area Committee desirous of inspecting any record of such proceeding or any other proceeding connected therewith, may apply to the Secretary to Government in the Department concerned or to the Commissioner, the Deputy Commissioner or the Assistant Commissioner or the Area Committee, respectively, as the case may be, for permission to inspect such record.

3. Every application for such inspection shall specify the number of the proceeding and shall contain all information necessary to identify the record required for inspection. It shall also state the purpose of which inspection is sought.

4. It shall be in the discretion of the authority concerned to grant or withhold permission for inspection of all or any part of the record required for inspection.

5. If permission for inspection is granted, the inspection shall be made in the presence of an officer authorized on his behalf, and a fee of Re. 1 in cash shall be paid for each day or part of a day spent on inspection.

6. When the record of the proceeding, which is sought to be inspected is not pending and relates to a previous year, a search fee of Re. 1 shall be paid in cash.

7. These rules shall not apply to inspection by a party to a proceeding under Chapters V, VI and VII of the Madras Hindu Religious and Charitable Endowments Act, 1959 of a document produced in such proceeding by any other party thereto.

8. Any person having interest may apply to a Secretary to government in the Department concerned to the ²[Commissioner, Joint Commissioner, a Deputy or an Assistant Commissioner as the case may be], for permissions to inspect the records of any proceedings which has been disposed of, whether he was a party thereto or not, such application shall be supported by an affidavit stating the interest and specifying the purpose for which the inspection is sought. The provisions of Rules 3 to 6 shall apply to such applications.

1. Entire Rule 2 substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

2. The words "the Commissioner, Joint Commissioner, or Deputy or an Assistant commissioner as the case may be" substituted for the words "or the Secretary to the Tamil Nadu Administration Board" or to the Secretary to the District Committee or to the Commissioner, Deputy Commissioner or Assistant Commissioner" by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

Amendment Particulars**Rules 8 of Principal Rules**

8. Any person having interest may apply to the Secretary to Government in the department concerned or to the Commissioner, a Deputy or an Assistant Commissioner or an Area Committee for permission to inspect the record of any proceeding, which has been disposed of, whether he was a party thereto or not. Such application shall be supported by an affidavit stating his interest and specifying the purpose for which the inspection is sought. The provisions of Rules 1 to 6 shall apply to such application.

LEVY OF FEES FOR SERVICE OF PROCESSES AND NOTICES RULES, 1961

[Published in the Fort St. George Gazette part V, page 671, dated 21st June, 1961.]

[G.O. Ms. No. 1874, Revenue, dated 25th September, 1968.]

S.R.O.No. A-654 of 1961.-In exercise of the powers conferred by Clause (v) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:-

RULES

1. These rules may be called the "LEVY OF FEES FOR SERVICE OF PROCESSES AND NOTICES RULES."

2. Every applicant or appellant and every party who desires or is asked to make out notice to any respondent or other party shall pay in cash such charges as may be fixed from time-to-time, by the Government for preparation of the process and postal expenses for the issue of registered notice to each respondent or other party to whom notice has to be issued. Where notice has, owing to non-service or for any other reason, to be issued again, the charges for re-service shall also be paid at the same rate as for the service of the original notices.

¹[3. Every party to a proceeding, who desires to summon a person to attend and give evidence or produce a document and give evidence, shall along with his application for issue of such summon, deposit in each such amount of allowances for travelling for subsistence as the presiding officer set out in the table below, and also the postal expenses for the issue of such summons by registered post.

Rule 3 of Principal Rules

3. Every party to a proceeding, who desires to summon a person to attend and give evidence or produce a document or for both purposes or to send a document by post shall, along with his application for issue of such summons, pay in cash, such charges for issue of each summons as may be fixed from time-to-time by the Government or by the Commissioner after obtaining the approval of the Government for preparation of the process and postal expenses for the issue of summons by registered post.

TABLE

Travelling Allowance for witnesses summoned to give evidence or to produce documents.

Class	By Rail	By Road	By Sea or	Subsistence allow- ance Per day
Witness				
I	Ist Class fare	20p.per.km	Actual express of Passage	Rs. 5 to Rs. 20
II	IInd Class fare	12p.per.km	"	Rs. 3 to Rs. 15
III	IIIrd Class fare	Actual bus Fare or When there is no bus service 6p.per.km.	"	Rs. 2 to Rs. 10

1. Rule 3 again substituted by G.O. Ms. No. 1874, Revenue dated 25th September, 1968.

Explanation I: The presiding officer shall decide the class to which the witness belongs.

Explanation II: The subsistence allowance for persons summoned to produce documents shall be Re. 1. only]

GRANT OF CERTIFIED COPIES RULES, 1960.

[Published in the Fort St. George Gazette supplemental to part 1, page 277 dated 29th June, 1960.]

[G.O. Ms. No.865, Revenue, dated 15th February, 1960]

S.R.O. No. A-4490 of 1960.—In exercise of the powers conferred by Clause (vi) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious Charitable Endowment Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules.

RULES

1. These rules may be called the “GRANT OF CERTIFIED COPIES RULES.”

2. (i) A party to a proceeding or a person having interest who is not a party to a proceeding under any provisions of the [Tamil Nadu] Hindu religious and Charitable Endowments Act, 1959, (Tamil Nadu Act 22 of 1959), may apply for a certified copy of any applications, memorandum or statement filled or document relied upon by any other party thereto and of any other order or decision made in such proceedings.

(ii) (a) if any person having interest applied for a certified copy of any other office document relating to a religious institution, his application shall be supported by a Court, Certified, that its production is necessary in some suit or proceedings.

(b) If the application is not supported by a Court, Certified, he shall file an affidavit to satisfy the authority empowered to grant the copy that he is so interested in the subject matter of a document concerned, and that he requires the copy *bona fide* for his own use.

(iii) If the application is supported by a Court affidavit and if the authority to grant the copy considers that the document is one in respect of which privilege under Sec.123 of the Indian Evidence Act, 1872 (Central Act 1 of 1872), should be claimed if summons for its production were received from the court, he shall refuse to grant copy to the applicant and inform the Court which issued the certification, that the document will be produced under the ordinary rules relating to the production of privileged documents if summons are issued by the Court.

¹[(iv) subject to the conditions mentioned in Sub-rules (ii) and (iii). The Government, ²[the Commissioner, Joint Commissioner, the Deputy Commissioner, or the Assistant Commissioner as the case may be] may grant copies of the records relating to the respective offices.]

1. Rule 2 clause (iv) substituted by G.O. Ms. No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

2. The words “the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner substituted for the expressions, Deputy and Assistant Commissioner by G.O. Ms. No.275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

3. (i) The Commissioner is responsible for the grant of copies of documents of the records of his department and it rests with him to determine in the case of every application for a copy [except in records referred to in Rule (2) above, copies of which, ¹[the Joint, Deputy and the Assistant Commissioners], can grant on their own authority], whether the document is of such nature that it can be granted without injury to public interest or without breach of confidence, it is also within the Commissioner's discretion to prohibit by a general order, the grant of any class of document not otherwise provided for.

(ii) If an application for a copy is made to a Deputy Commissioner or an Assistant Commissioner and the document is one of which a copy cannot be granted by him, he should forward the application to the Commissioner with his remarks.

4. (i) The grant of copy should not be refused merely on the ground of the documents being an official report; the general rule in regard to this matter being that no copy should be granted of a report of a confidential character and that the officer to whom the report is addressed should, in every case, decide whether a copy of it may be granted.

(ii) If the Commissioner considers that the grant of a copy is objectionable, he should reject the application stating briefly his reason for doing so.

(iii) (a) If the Commissioner is satisfied there is no objection for the grant of a copy and the document is only a record of the office of ²[Joint Commissioner, the Deputy Commissioner or the Assistant Commissioner] he may direct the Joint, Deputy or Assistant Commissioner concerned to furnish the required copy or he may direct the party to apply for copies to Joint or the Deputy Commissioner and Assistant Commissioner concerned.

(b) If the document in question be a communication from the government or the Board of Revenue, the Commissioner shall in the first instance address the Government or the Board of Revenue, as the case may be, for permission to furnish the copies or direct the party to apply for copies to the authority which issued the communication.

(c) when the Government or the Board of Revenue accord sanction for the grant of a copy of a document to one individual, the Commissioner may without further reference to those authorities grant a copy of the same document to other individuals, provided that the claim of those individuals to a copy is founded on grants equal to those of the first. In case in which a copy was given in the first instance to a person, who possessed some special claims to a copy, the mere fact, that a copy has been granted to him must not be held to entitle any other person not possessing such special claim to a copy. Copies of petitions addressed to Government or the Board of Revenue may not be granted to private persons other than the signatories to such concerned, copies of orders passed by the Government or the Board of Revenue may not be granted to private persons other than the signatories to such petition. The Commissioner may, however grant, on application by the parties concerned, copies of orders passed by the Government or the Board of Revenue on petitions presented to these authorities, but passages

1. The words "the Commissioner, the Joint Commissioner, the Deputy Commissioner, the Assistant Commissioner substituted for the expressions "the Secretary to the Tamil Nadu Temple Administration Board, the Secretary to the district Committee, the Commissioner, The Deputy Commissioner or the Assistant Commissioner" by G.O. Ms. No.275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

2. Substituted for the expressions "Deputy Commissioner or the Assistant Commissioner he may direct the Deputy Commissioner, or the Assistant Commissioner concerned to furnish the required copy or he may direct the party to apply for copies to the Deputy Commissioner and Assistant Commissioner concerned" by G.O. Ms. No. 275, commercial taxes and Religious Endowments, dated 16th July, 1997.

containing remark on the conduct of officers or which, for any other reason, should not be communicated to the parties or to the public, shall be omitted. When such copies are granted. The Commissioner and the other officers of the Hindu Religious and Charitable Endowments (Administration) Department may grant copies of Government orders or other paper which have been published in the Gazette or marked "press".

5. Every application for grant of copies of record shall be stamped with court-fee stamps of the value of fifty naye paise and shall be made to the authority to whose office the record in question belongs. The applications shall set out the name of the application, and the number, date and description of the document, of which a copy is required. Application or copies should be entered in a Register maintained for the purpose in the form given in Appendix I, to these rules. If there is no objection to the grant of a copy applied for, the applicant should be required to produce or send requisite number of the copy of stamped papers within a reasonable time. If the stamped papers are not received within the time, the application shall be lodged.

6. Every person requiring a search to be made among the records of an office for the purpose either of inspecting a document or for taking copies or extracts thereof must submit an application to the authority to whose office the records in question belong, in the form given in Appendix II to these rules, stamped with a court-fee stamp of the value of fifty naye paise.

NOTES. – A separate application need not be presented in respect of each document of which inspection or copy or extract is required.

2. Enclosures or annexures to letters, accounts or other documents form part of the documents to which they appertain and are not reckoned for the purpose as separate documents.

3. Applications from subordinates of all classes of the Hindu Religious and Charitable Endowments (Administration) Department for copies of orders relating to departmental punishments are exempt from payment of stamp duty.

7. When the document applied for belongs to a year previous to the current calendar year, search fee, in court-fee stamps according to the sub-joined scale must be affixed to the application—

(A) When the document applied for belongs to a year prior to the current calendar year but is not more than ten years old -

(a) When the applicant gives the number and date of the document required -

(i) for the document applied for, or if more than one document is applied for, for each document included in the same application except those specified in sub-clause (ii) - Re. 1

(ii) for every document other than the first included in the same application and connected with the same subject - Fifty naye Paise.

(b) When the applicant does not know to which year a document belongs -

(i) for the document applied for, or if the application is for more than one document, for each document included in the same application, except those specified in sub-clause(ii) of clause (a), for the first year of search - Re. 1.

for every year other than the first year - Fifty naye Paise.

(ii) for every document other than the first, included in the same application and connected with the same subject and belonging to the same year - Fifty naye Paise.

(B) When the document is more than ten years old

(a) When the applicant gives the number and date of the document required -

(i) for the document applied for or if the application is for more than one

document, for each document included in the same application, except those specified in sub-clause (ii) – Rs. 2.

(ii) for every document other than the first included in the same application and connected with same subject Re. 1

(a) When the applicant does not know to which year a document belongs:

(i) for the document applied for, or if the application is more than one document, for each document included in the same application except those specified in sub-clause (ii) – for the first year of search – Re. 1

(ii) for every document other than the first included in the same application and connected with same subject and belonging to the same year Re. 1

NOTES. – (1) Only one search fee need to be paid for all papers filed together and forming a single record.

(2) Search fee shall not be levied on application for the return of documents.

(3) A search shall not be commenced until the applicant pays the prescribed search fee.

(4) The applicant should specify in his application the number and date of the document of which copies are required or the period to which the document relates and search will be confined to the year or period specified.

(5) If the applicant is not able to specify the number and the date of the document or the period to which the document relates, he should be asked to state the period over which he requires the search to be conducted and pay search fees at the prescribed rates. If the document is found without the search having to be conducted over the full period specified by the applicant, proportionate refund of the search fee collected will not be made.

8. Where the documents are such as can be copied on copy stamp papers; both sides of the copy stamp paper should be used for writing, whether in English or in an Indian language. A maximum of 175 words should be written on the first (embossed) page of the copy stamp paper. The copying fee for this page will be five annas. By suitable ruling, a maximum of thirty lines containing a maximum of 240 words at the rate of eight words for each line should be written on the reverse side of the copy stamp paper. The copying fee to be charged for the reverse side will be as follows: -

When the number of words written does not exceed 175, seventy naye paise. When the number of words written exceeds 175, ninety naye paise. When the reverse of the copy stamped paper is to be written, an adhesive court-fee labels of the value of seventy naye paise or forty naye paise, as the case may be, should be affixed at the top right hand corner of that side.

9. Copies of documents granted shall be certified as "True copy" under the signature of

(a) the Assistant Secretary, Under Secretary or Deputy Secretary in the department concerned in respect of copies granted by the Government.

¹[²[a₃] the section superintendents authorized by the Commissioner in respect of the copies granted by the Commissioner.]

¹[²[a_{2a}] the manager authorized by the Joint Commissioner and the Deputy Commissioner

1. Clauses (a₃) and (a_{2a}) added by G.O. Ms. No. 506. Commercial Taxes and Religious Endowments, dated 13.12.91 which reads as follows: -

2. Clauses (a₃) and (a_{2a}) substituted by G.O. Ms. No. 275. Commercial Taxes and Religious Endowments dated, 16th July, 1997.

(a₃) The section superintendent authorized by the Secretary to the Tamil Nadu Temple Administration Board;

(a_{2a}) the Manager/Head Clerk authorized by the Secretary to the District Committee.

in respect of copies granted by the Joint Commissioner or Deputy Commissioner or by the Head Clerk authorized by the Assistant Commissioner in respect of copies granted by the Assistant Commissioner.]

(b) the section superintendent authorized by the Commissioner in this behalf in respect of the copies granted from the Commissioner's office.

(c) the Manager in respect of the copies granted from the Deputy Commissioner's office; and (d) the Assistant Commissioner in respect of the copies granted from the Assistant Commissioner's office.

10 (i) the copies shall be sent to the applicant with the unused copy stamped papers, if any, by post in an official cover super-scribed "certificate copies-service unpaid" or "certified copies and copy stamp papers-service unpaid" as the case may be. If the cover is returned undelivered for any reason the head of the office should pay the postage out of this office contingencies.

(ii) (a) the cover and its contents shall then be retained for two weeks so that, if the addressee appears and applied for the copies in person, they may be handed over to him after recovering the cost of the postage paid from the contingencies. If he does not so appear, the certified copies should be destroyed and a note of such destruction made in the remarks column of the copy application register against the item concerned.

(b) the unused copy stamp-papers, if any, should be sent to nearest sub-treasury officer and his acknowledgement obtained.

COLLECTION OF INCOME AND THE INCURRING OF EXPENDITURE RULES, 1961.

[Published in the Fort St. George Gazette Part V, Page 1230 dated 6th December, 1961]

[G.O. No. 4065, Revenue, dated 26th September, 1961]

S.R.O.No. A-1186 of 1961. - In exercise of the powers conferred by Clause (x) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments, Act, 1959 (Madras Act XXII of 1959), the Governor of Madras hereby makes the following Rules.

RULES

1. Short title. - These rules may be called the "COLLECTION OF INCOME AND THE INCURRING OF EXPENDITURE RULES."

2. ¹[Income to be collected on the due dates.]- Every item of income of religious institutions shall be collected regularly and, as far as may be, on the date on which it falls due.

3. Responsibility of the trustees. - The trustee of the institution shall be responsible for making all collections of income, whether in cash or in kind.

4. Trustee to grant receipts for all items of income. - The trustee shall grant receipts for all items of income and for all offerings and gifts in cash and kind received by him for the institution.

5. Issue of temporary receipt. - Where an officer of the institution is authorized to make collections, a temporary receipt may be issued by such officer. Such collections shall not be utilized directly by the officer for any purpose but shall be handed over to the trustee then and there and if the collection is made by an officer employed for collection in a village other than the village where the institution is situate, as expeditiously as possible, and, in any case, within seven

1. Substituted for heading of principal Rule 2 "Income particulars to be collected on the due dates" by S.R.O. No. A 442 of 1963.

days of the date of collection. The trustee shall grant a permanent receipt as soon as he receives the collections made by the Officer.

¹[5A. Prevention of improper Collection. – No person, who is not, in any way, connected with the affairs of the religious institution, shall collect any money, subscription, donations or other property for religious purpose connected with religious institutions. If it is brought to the notice of the competent authority having jurisdiction and administrative control over the religious institution, that a person or group of persons indulged, in making such collections, such authority shall direct such person or group of persons, to stop making such collection, forthwith, and require such persons or group of persons to deposit such collection with the religious institution concerned and to render an account of the collection made by such person or group of persons.

Any person or group of persons who fail to comply with the direction of such competent authority will be liable for prosecution under the Provisions of the Indian Penal Code.]

6. ²[Signature or thumb-impression of the person to whom receipt is issued, to be obtained. – Temporary or permanent receipt books, with receipts in counterfoil bearing printed machine numbers, shall be maintained. The signature of the person to whom the receipt is issued and in case such person cannot sign his name, his attested thumb impression shall be obtained with date on the reverse, on the duplicate of the receipt in token of having obtained the receipt.]

7. ³Accounting collections without delay. – (a) All receipts shall be deposited in the first account to be operated jointly by the chairman, Board of Trustees and the Executive Officer concerned. The cheque book, and pass book shall be in the custody of the Executive Officer.

(b) A second account shall be opened in the name of the Executive Officer and the amounts required for expenditure shall be transferred from the first account to the second account. The account to be operated in the second account shall not exceed the limit fixed by the Commissioner, ⁴[Joint Commissioner, Deputy Commissioner], or Assistant Commissioner, as the case may be, and such limit shall not exceed one twelfth of the annual expenditure of the temple spent on festivals, further expenditure not exceeding one twelfth of the annual expenditure of the temple may be operated.]

8. Only trustee can give a valid discharge of a claim. – No person other than a trustee shall be competent to give a valid discharge of any claim of the institution.

9. Appropriation of receipts to expenditure to be avoided. – The appropriation of receipts of money to expenditure shall ordinarily be avoided.

10. (a) ⁵[No expenditure without budget sanctioned-(a)] which is not sanctioned in the budget shall without the previous sanction of the Assistant Commissioner, Joint or Deputy Commissioner, or the Commissioner as the case may be.

(b) No expenditure exceeding Rs.1,500 shall be incurred on any individual music performance and other entertainment on festival and other occasion. Expenditure over and above

1. Rule 5A inserted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

2. Substituted by G.O. Ms. No. 716, CT&CE dated 29th June, 1987.

3. Rule 5 substituted by G.O. Ms. No. 1072 Commercial Taxes and Religious Endowments, dated 28th July, 1988.

4. The words "The Joint Commissioner or Deputy Commissioner" substituted for the words "Deputy Commissioner" by a G.O. Ms. No. 200, CT&CE dated 30th May, 96.

5. Rule 10 substituted by G.O. Ms. No.716, Commercial Taxes and Religious Endowments dated 29th June, 1987.

this limit shall however be permissible, if any devotee or kattalaidar or Ubayadar makes a donation specifically for this purpose.

(c) No expenditure shall be incurred on advertisements in Newspaper, etc., except in the following cases:

(i) Inviting tenders and quotations for works sanctioned by competent authorities and also for leases and sales.

(ii) Publication of information, particulars, etc., in Railway Time Table.

(iii) Publication of important annual programmes.

(iv) Clearing the doubts in minds of the public which may in any way defame the reputation of the institutions; and

(v) Calling for applications for posts which may have to be filled up by technical or highly experienced persons.

(d) No books or newspapers which is affiliated to any political party shall be purchased or subscribed for libraries or for reading room maintained by religious institutions.]

11. Expenditure to be incurred according to dittam and budget. - No expenditure shall be incurred without the written order of the trustee. Before incurring expenditure on any purpose, the trustee shall satisfy himself that the expenditure is necessary and that the scale of such expenditure does not exceed the dittam when the expenditure relates to poojas and festivals, and the budget sanction in the matter covered by the budget.

12. Claims indisputably payable. - Claims indisputably payable, shall never be left unpaid and disbursements in cash or kind by means of cheques shall, under the circumstances be kept out of the accounts a day longer than is absolutely necessary.

13. Bill to be signed by persons making claim against the institution. - Any person having a claim against the institution shall present a duly signed bill containing the details of the claim and of the dates on which the claim fell due. The trustee shall verify the correctness of the claim and sanction payment.

14. Responsibility of persons making disbursements without the sanction of the trustee. - Where disbursement on behalf of an institution is made by a person other than the person competent to incur expenditure, such disbursing officer shall be personally responsible for any disbursement which has not received the sanction of the trustee.

15. Receipts to be obtained for all payments. - Receipts shall be obtained for all payments, receipts for sums exceeding Rs. 20 either by cash or cheque being duly stamped.

16. All purchases shall be supported by bill or certificate. - Where purchases sanctioned by the trustee have to be made in a place other than the village or town in which the institution is situated, they may be made through servants of the institution to whom advances may be made. All purchases shall be supported by shopmen's bills duly receipted. Purchases of perishables or other articles for not more than Re. 1. need not however be supported by the dealers bills and receipts, but the disbursement shall be supported by a certificate from the person who made the purchase and the disbursement, that they were made, and a certificate from the trustee that the articles paid for were duly received by the institution.

17. Definition of 'Trustee' for purpose of Rules 2 to 16. - (1) Where the institution has an Executive Officer appointed under a scheme or under Sec.45 or Sec.74 who is authorized to make collections or incur expenditure, such Executive Officer shall deemed to be the 'trustee' for purposes of Rules 2 to 16.

(2) Where the institution has no such Executive Officer duly authorized, but has more than one trustee-

(a) the chairman of the trustees shall be deemed to be the trustee for purposes of Rules 2 to 8; and

(b) any trustee authorized by the trustees to sanction expenditure shall be deemed to be the 'trustee' for purposes of Rules 11 to 16.

18. Authority to write off irrecoverable loans, etc. – When proposals to write off irrecoverable loans, advances, debts, loss of moneys, value of stores and articles and items of revenue due to religious institutions are received, the authority herein empowered to write off the same shall fully investigate the clauses that led to the non-recovery of the amounts and shall sanction the write off only if it is satisfied that proper, adequate, and timely steps were taken to recover the same from the persons concerned or from the persons through whose negligence or irresponsibility, the loss had occurred. The authority empowered to sanction the write-off is specified in the table below. They should maintain a register showing the amounts so written off from time-to-time, so that recovery either in full or in part may be effected, if eventually that is found possible.

THE TABLE

Authority competent to order write off	Maximum limit up to which the write off can be sanctioned in each case
1. Assistant Commissioner	Amounts not exceeding Rs. 500 (Rupees five hundred only) in the case of religious institutions under his control
2. Assistant Commissioner	Amounts not exceeding Rs. 500 (Rupees five hundred only) in the case of notified religious institutions not included in the lists published under Section 46 of the Act
3. ¹ [Joint or Deputy Commissioner]	(a) amounts not exceeding Rs. 1,000 (Rupees one thousand only) in the case of all listed religious institutions and Maths. (b) Amount exceeding Rs. 500 (Rupees five hundred only) but not exceeding Rs. 1,000 (rupees thousand only) in the case of religious institutions within the jurisdiction of [xxx] and Assistant Commissioners under his control.
4. Commissioner	Amounts exceeding Rs. 1,000 (rupees thousand only) but not exceeding Rs. 10,000 (rupees ten thousand only) in the case of any religious institution.
5. Government	In all other cases, no item of irregular, illegal or, improper expenditure of the nature specified in Sec.89 (1) which is surchargeable under Sec.90 (2) of the Madras Hindu Religious and Charitable Endowments Act, 1959, shall, however be written off.

19. Accounts, etc., to be maintained according to the Manual of Accounts of the Hindu Religious and Charitable Endowments (Administration) Department.- Accounts, Registers and other relevant forms shall be maintained according to the Manual of Accounts of the Hindu Religious and Charitable Endowments (Administration) Department.

1. The words "The Joint Commissioner or Deputy Commissioner" substituted for the words "Deputy Commissioner" by a G.O. Ms. No. 200, CT&CE date 30th may, 1996.

**THE RELIGIOUS INSTITUTIONS (CUSTODY, INVESTMENTS AND
LENDING OR BORROWING OF MONEYS) RULES, 1963.****[Published in the Fort St. George Gazette Part V, Page 364, dated 22nd April, 1964]**[G.O.No.3584, Revenue, dated 24th December, 1963]*

1. Short-title. -These rules may be called "THE RELIGIOUS INSTITUTIONS (CUSTODY, INVESTMENTS AND LENDING OR BORROWING OF MONEYS) RULES, 1963".

2. Custody of moneys.- Subject to the provisions of any scheme settled or deemed to have been settled for a Religious Institution, the moneys received by a Math shall be in the trustee of the Math or such officer of the Math as the trustee may appoint in this behalf and the moneys received by other religious institution shall be in the custody of the trustee or in the custody of the Chairman of the Board of Trustee, where there is a Board of Trustees.

3. Investment of moneys required for current expenses. - (1) Out of the moneys received by a trustee or the Chairman of the Board of Trustee, as the case may be, moneys required by the trustee or the Chairman for expenses for a period of three months shall be lodged in any one of the banks specified below in the Current Account or in the Savings Bank Account and drawn upon by the trustee or the Chairman as and when required:

- (i) A Scheduled bank as defined in the Reserve Bank of India Act, 1934; or,
- (ii) The Madras State Co-operative Bank Limited; or,
- (iii) A Post Office Savings Bank; or,
- (iv) Such Central District Co-operative Banks as have been approved by the registrar of Co-operative Societies for the investment of funds of local bodies; or,
- (v) Co-operative Urban Banks in Tamil Nadu, which maintain fluid resources and which are approved by the Registrar of Co-operative Societies for this purpose.

(2) Moneys required for current expenditure within the fasli, over and above the amount specified above, shall be lodged in seasonal or fixed deposits for periods less than one year in any one of the banks specified in Sub-rule (1). Moneys in excess of that required for expenditure within the fasli shall be invested in the manner laid down in Rule 7.

4. (a) Moneys received as Deposits.- Any money received as deposits shall be lodged separately and not withdrawn unless required for being refunded or adjusted.

(b) Any money realized by sale of immovable properties shall be deposited separately in one or other of the securities mentioned in Rule 7 (a) to (d) and shall not be withdrawn without the previous permission of the Commissioner;

¹[Provided that the Commissioner may, for reason to be recorded in writing, also permit the withdrawal and utilization of such amounts for construction of new buildings repairs to old buildings and for other purposes connected with the religious institution.]

5. Moneys - how to be lodged. — Lodging of moneys under Rule 3 or Rule 4 shall be made in the name of the institution.

6. Withdrawals. — (1) Subject to the provisions of any scheme settled or deemed to have been settled for a religious institution or any Order under Section 67, the trustees of the institution or the Chairman of the Board or Trustees as the case may be, shall have the power to withdraw such deposits or any part thereof and operate on the bank accounts.

* Original rules published in Part V of the Fort St. George Gazette, dated 22nd April 1964.

1. G.O. Ms. No.560 Rev. dated 2nd March, 1965.

(2) No money shall be withdrawn from the bank unless it is required for immediate payment for the purpose of the religious institution.

7. Investment of moneys other than those referred to in Rules 3 and 4.—(1) Any money belonging to religious institutions, other than those referred to in the Rules 3 and 4, shall be invested:

(a) in one or other of the following securities, namely:-

(i) Promissory notes, debentures, stocks or other securities of the Central Government;

¹[(ii) Promissory notes, N.S.Cs: N.P.Sc., stocks or other securities of the State Government.]

(iii) Stocks or debentures of or shares in companies, the interest wherein shall have been guaranteed by the Central or the State Government.

(iv) Debentures of the Madras Co-operative Central Land Mortgage Bank Ltd., so long as the interest thereon is guaranteed by the State Government.

(v) Debentures of other securities for money issued by or on behalf of any municipal body under the authority of any Act of a legislature established in India; or

²[(b)] in fixed deposits for period not less than twelve months and not exceeding one hundred and twenty months:-

(i) a scheduled bank as defined in the Reserve Bank of India Act, 1934; or,

(ii) the Madras State Co-operative Bank Ltd.; or,

(iii) such Central District Co-operative Banks as have been approved by the Registrar of Co-operative Societies for the investment of the funds of local bodies; or,

²[**Explanation:** Institutions are bound to deposit not less than 50% of their surplus funds in Co-operative Banks in long term deposits.]

(iv) Co-operative Urban Banks; or,

(v) Co-operative Agricultural Banks and rural Banks which are maintaining fluid resources and which are recommended by the Deputy Registrar up to a limit of Rs.300; or,

(vi) the Madras Co-operative Central House Mortgage Bank Ltd., Madras, so long as the principal and interests are guaranteed by the Government ; or,

(vii) the Madras Industrial Investment Corporation Ltd.; or,

³[(viii) the State Industries Promotion Corporation of Tamil Nadu Limited; or,

⁴[(ix) The Tamil Nadu Transport Development Finance Corporation Ltd.]

(c) in a Post Office Savings Bank; or,

(d) with the previous sanction of the Commissioner, in the purchase or in the first mortgage of immovable property provided that the property is not a leasehold for a term of ten years and that the value of the property exceeds by one-half of the mortgage money; or,

(e) in loans on promissory notes to needy but solvent religious institutions; or,

⁵[(f) Units issued by the Unit Trust of India;]

(2) The lending of moneys to religious institutions referred to in (e) of Sub-rule (1) and the borrowing of money by them shall be subject to the following conditions namely:-

1. G.O. No.3246 Revenue dated 19th December, 1972.

2. G.O. Ms.No.1305 C.T and R.E dated 24th November, 1982.

3. G.O. Ms.No.784 C.T. and R.E. dated 8th June, 1976.

4. G.O. Ms. 370 C.T. & R.E. dated 2nd March, 1977.

5. G.O. Ms. No. 394 C.T. and R.E. dated 12th April, 1982.

(a) The trustee may lend moneys of a religious institution to another religious institution with the express prior sanction of the competent authority.

(b) No trustee shall lend moneys of a religious institution to its employees or other individuals or bodies.

(c) The trustee of a religious institution may, with the previous approval of the competent authority, borrow money on behalf of the religious institution from another religious institution or private individual including the trustee or an employee of the religious institution,

(d) Every application seeking sanction to raise a loan shall be made to the competent authority and shall contain the following particulars:

(i) Necessity and urgency for raising a loan.

(ii) Amount of loan required.

(iii) From whom it is proposed to borrow.

(iv) Financial position of the religious institution on the date of application.

(v) Period by which loan could be repaid.

(vi) Number of instalments and the amount of such instalment.

(vii) Probable income and anticipated expenditure during the intervening period.

When the amount is sought to be borrowed from the trustee or an employee of the religious institution or from any other individual, his consent in writing to lend the required money shall also be sent.

(e) The competent authority shall, before according sanction to a religious institution to lend money satisfy himself as to its capacity to lend, and before according sanction to a religious institution to borrow money, satisfy himself as to its capacity to repay.

(f) The competent authority shall specify the time by which the loan shall be repaid, stipulate the number of instalments, if necessary, and fix the rate of interest payable on the loan, if any;

Provided that in the case of lending or borrowing of moneys from one religious Institution to another, the competent authority may waive the recovery of interest either in whole or in part.

(g) The trustee of a borrowing institution shall execute a promissory note in favour of the trustee of the lending institution or individual.

(h) The competent authority to sanction the lending and borrowing of moneys shall be—

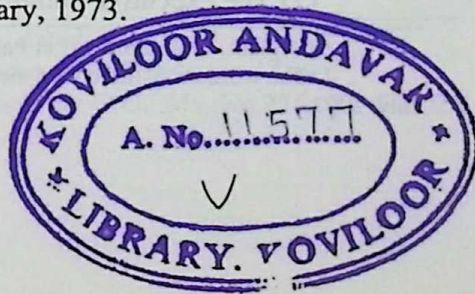
(i) The Assistant Commissioner up to a limit Rs. 5,000 (Five thousand only) in respect of the institutions under his jurisdiction, subject to approval by the Commissioner.

(ii) The Deputy Commissioner or the Joint Commissioner, as the case may be up to a limit of Rs. 10,000 (Ten Thousand only) in respect of the institutions under his jurisdiction, subject to approval by the Commissioner, and

(iii) The Commissioner in respect of a non-listed notified temple and in all other cases.

The investments made under Rule 7 (1) (a) and (b) above shall not be pledged, encashed or withdrawn, without the permission of the Commissioner.

Amended as per G.O.Ms.No.3515, Revenue Department, dated 29th December, 1972; Commissioner's Revenue Department 48425/71, dated 8th January, 1973.



RELIGIOUS INSTITUTIONS (LEASE OF IMMOVABLE PROPERTY) RULES, 1963.*

[Published in the Fort St. George Gazette Part V, Pages 1106 – 1108 dated 17th October, 1963.]

[G.O. Ms. No. 3060, Revenue dated 17th October, 1963.]

S.R.O.No. A-1110 of 1963.- In the exercise of the powers conferred by Clause (xiii) of Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:

RULES

1. Short Title. - These rules may be called the “RELIGIOUS INSTITUTIONS (LEASE OF IMMOVABLE PROPERTY) RULES, 1963.”

2. Lease by Public Auction. - Lease of immovable property and rights belonging to a religious institution shall be made by public auction. The auction shall ordinarily be conducted in the place in which the property is situated or the rights exist:

Provided that the ¹[Joint Commissioner or the Deputy Commissioners as the case may be] may, either *suo motu* or on an application made to him by the executive authority, permit the holding of such an auction at a place within the district, other than the one in which the property is situate if he is satisfied that it will not be detrimental to securing a proper bid.

Explanation: For purposes of these rules, the term “Executive authority” shall mean.-

(a) The Executive Officer where there is one; or

(b) Where there is no Executive Officer;

(i) The trustee, if there is a single trustee; or

(ii) The Chairman, of the Board of trustees, if the number of trustees exceeds one.

[No transfer of lease of any property or right belonging to a religious institution shall be approved by the Executive authority without the prior sanction of the commissioner].

3. Period and Terms of Lease. - (1) The trustee shall, in the meeting or in circulation, decide the person for which a lease shall be given, the terms and conditions of the lease, such as the security to be furnished by the lessee, whether the rental is to be in kind or in cash, the date on, and the place at which the rent is to be given, the penalty, if any to be imposed for default in payment of rent, the division of the lands into convenient blocks, the time, date and conditions of the auction. Such meeting shall be held or circulation made atleast two months before the expiry of the period of lease.

(2) The auction of all leases shall be conducted within one month from the date of the decision of the Board of Trustees.

4. Auction Notice. - (1) The notice of auction of all leases shall be published, at least 15 days before the date fixed for auction, by affixture.

(a) On the Notice-board or; in the case of a specific endowments on the notice-board or front door of the religious institution to which the specific endowment is attached.

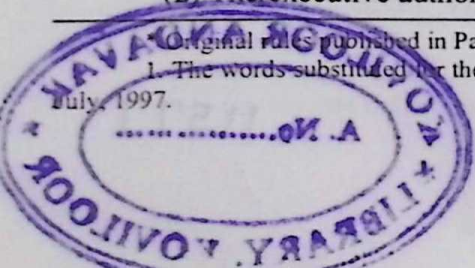
(b) On the notice-board of the office of the municipal council on the Corporation of Chennai or the Panchayat or the Panchayat Union or the village Chavadi in the places where the properties are situate; and

(c) On the notice-board of the office of the Assistant Commissioner having jurisdiction over the area in which the properties are situate.

(2) The executive authority shall also give publicity to the notice in the language of the

* Original rules published in Part V of the Fort St. George Gazette, dated 6th November 1963.

1. The words substituted for the words “Deputy Commissioner” by G.O. Ms. No. 275, C.T. & H.R. dated 16th July, 1997.



locality, by circulation or distributing copies thereof or announcing its contents by beat of tom-tom in the areas or by publishing it in a newspaper in the language of the locality having circulation in the area.

(3) Where the auction is conducted by the Executive Officer, a copy of the auction notice shall also be sent to the trustee at least 3 days before the date fixed for auction.

5. Particulars to be furnished in the Auction Notice. - The auction notice shall, among others, specifically state,

(i) That the earnest money shall be deposited before participating in the auction.

(ii) That the lease shall be subject to the terms and conditions specified in the auction notice.

(iii) That the successful bidder shall furnish such security as may be specified within the time fixed by the trustee.

(iv) That lease shall be liable to be cancelled and re-auctioned at the risk of the lessee, if he -

(a) Fails to furnish security and execute the lease deed within the time fixed.

(b) Commits default in the payment of rent on the date fixed; or

(c) Acts contrary to the terms and conditions of the lease and against the interest of the religious institution;

(d) That it shall not be open to the lessee to transfer the lease or sub-lease the property.

(v) That the lessee, shall execute a lease deed in the form specified by the executive authority of the religious institution; and

(vi) That the lease, the annual rental of which is ¹[Rs. 15,000] or more, its equivalent in kind, shall be subject to *veto* by the commissioner.

6. Authority to conduct Auction. - ²[(1) The auction shall be conducted by.-

(a) The Executive Officer ordinarily; or

(b) When there is no Executive Officer

(i) By any other trustee duly authorized by the Chairman of the Board of Trustees; or

(ii) By a person duly authorized by a hereditary trustee; or

(iii) By any other officer specially authorized by the Assistant Commissioner or the ³[Deputy Commissioner or Joint Commissioner as the case may be]].

(2) Where the lease is in respect of property or rights of a religious institution, the rental of which for the previous fasli year did not exceed Rs. 200 the auction may, with previous permission of the ³[The Joint Commissioner, or Deputy Commissioner as the case may be], conducted by an employee of the religious institution concerned specially deputed for the purpose by the executive authority, such deputation of an employee shall not absolve the executive authority of his responsibility for the proper conduct of the auction of the lease.

7. Earnest Money. - The executive authority shall, before allowing anybody to participate in the auction, collect the earnest money payable by him. A person who is in arrears to the religious institution shall not be permitted to bid at the auction.

1. Substituted for the figure "500" by G.O. Ms. No. CT & RE dated 13.12.91.

2. Rule 6 Sub-rule (1) submitted by G.O. Ms. No. 1152, Revenue, dated 18th April 1964:

3. The words substituted for the words "Deputy Commissioner" by G.O. Ms. No.275, CT & R.E. dated 16th July, 1997.

8. Grant of Lease. - (1) Lease shall ordinarily be given to the highest bidder, but in special cases, for reasons to be recorded in writing, a bid other than the highest bid may be accepted.

(2) In the case of religious institution having more than one trustee, if all the trustees are not present at auction, the final acceptance of the bid shall be made by the trustees at a meeting or in circulation, within 10 days from the date of auction. The trustees shall satisfy themselves as to the solvency of the successful bidder, before accepting the bid.

9. Security. - The executive authority shall take reasonable security from the successful bidder. In the case of lease of more than one year, such security shall be in a sum equal to at least one year's rental but, the Deputy or Joint Commissioner may, in special cases, for reasons to be recorded in writing permit the trustee to accept security of less than one year's rental in value.

10. Extension. - No provisions for extension of the lease shall be made in the lease deed.

¹[**11. Lease otherwise than by Public Auction.**- The commissioner on an application, made to him by the executive authority of religious institution may ²[Commissioner³[xxx]], permit the lease of any property or any right otherwise than by public auction, if he is satisfied that the interest of the institution will not suffer by dispensing with the public auction.]

12.(1) When a lease is granted for a period of less than five years, any further extension of lease up to a period of five years from the date it was originally granted shall be made only with the provisional sanction of the ²[Commissioner³[xxx]]. Lease exceeding five years shall be made in accordance with the provision contained in Sec.34.

(2) **Report to be made to the Commissioner.** - Lease stipulating an annual rental or contract amount of ⁴[Rs.1,000] or more or its equivalent in kind shall be reported to the commissioner and also to the Assistant Commissioner ⁵[or to the Joint Commissioner]/Deputy Commissioner in whose jurisdiction the religious institution lies by the executive authority of the institution within one week from the date of auction or acceptance of the offer by the trustees.

(3) ⁶[xxx]

13. Veto by Commissioner. - The Commissioner shall have the power to *veto* such lease for reasons to be recorded in writing after giving a reasonable opportunity to the parties concerned to make their representation, if any.

14. Confirmation. - If no such order exercising the powers of *veto* is received by the executive authority of the instructions within 60 days from the date of auction the executive authority shall confirm the lease.

15. Remission. - Remission of rent shall not ordinarily be granted. But when, owing to adverse seasonal conditions and other factors beyond the control of the lessee, there is a remission in the gross produce to the extent, of more than 25 per cent, remissions may be granted by the

1. The words substituted for the words "Deputy Commissioner" by G.O. Ms. No.275, CT & R.T.R. dated 16th July, 1997.

2. Substituted for the words "The Deputy Commissioner" by G.O. Ms. No. 506, Commercial Taxes, and Religious Endowments, dated 13th December, 1991.

3. In Rule 11, 12 (1) The words "with the approval of the Temple Administration Board" omitted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated, and omitted by the G.O. Ms. No. 275, CT & CE 16th July, 1997.

4. Substituted for the figure and words "Rs. 500" by 40504, CT&CE dated 13th December, 1991.

5. In Rule 12 (2) or to the Joint Commissioner added by G.O. Ms. No. 275, CT&CE dated 16th July, 1997.

6. Sub-rule (3) omitted by *Ibid*.

authorities specified in Column (1) of the table upto the monetary limits specified in the corresponding entries in Column (2) hereof or their equivalent kind.

THE TABLE

<i>Authority</i>	<i>Maximum Limit upto which remission may be granted in each individual lease in a year</i>
1. ¹ [Assistant Commissioner]	Remission not exceeding Rs.500 (Rupees five hundred only) as regards religious institution ² [under his control].
2. Joint Commissioner/ Deputy Commissioner	(a) Remission exceeding Rs.500 (Rupees five hundred only) and not exceeding Rs.1,000 (Rupees One Thousand only) as regards all listed religious institutions within his Jurisdiction of the ¹ [Assistant Commissioner]. (b) Remission not exceeding Rs.1,000 (Rupees one thousand only) as regards all listed religious institutions within his Jurisdiction.
3. Commissioner	Remission exceeding Rs.1,000 Rupees One Thousand Only) and not exceeding Rs.5,000 (Rupees five thousand only) as regards any religious Institution.
4. Government	Remission exceeding Rs.5,000 (Rupees Five Thousand Only) as regards any religious institution.

16. Rules not to apply.- (1) The provisions of these rules relating to lease by public auction and remission shall not apply to lands coming under the purview of the Tamil Nadu Public Trusts (Regulating of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961) ³[xxx]

(2) These rules shall not apply to matters and specific endowments attached to a matter.

⁴[17. Fixation of Fair Rent to Buildings belonging to Institution.- Fair rent to the site and buildings belonging to the religious institutions shall be revised periodically atleast once in three years by a committee constituted for each Deputy/Joint Commissioner's division by the Commissioner. If there is an Executive Officer, appointed for the religious institutions, he shall also be associated with the work of the committee. If there is no Executive Officer appointed for the religious institution, the trustee or Chairman, Board of Trustees, shall be associated with the work of the committee. The fair rent shall be fixed in accordance with the market value of the land and cost of the building worked out as per the code of the Public Works Department.]

1. The words "Assistant Commissioner" substituted for the words "Area Committee" by S.R.O. No. A 665 of 1970.

2. Substituted for the words "under its control" by *Ibid*.

3. The expressions and also to buildings to which the provisions of the Tamil Nadu Buildings Lease and Rent control) Act, 1960 (Tamil Nadu Act 18 of 1960 apply) omitted by G.O. Ms. No. 655, Commercial Taxes and Religious Endowments, dated 11th May, 1976.

4. Rule 17 substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments dated 16th July, 1997.

THE MANNER OF AUDIT OF ACCOUNTS RULES, 1961.*

[Published in the Fort St. George Gazette, Part V page No.1232, dated 6th December, 1961]

[G.O. No.4065, Revenue, dated 26th September, 1961]

S.R.O.No. A-1187 of 1961. — In exercise of the powers conferred by Clause (xiv) of Sub-sec.(2) of Sec.116, of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:

RULES

1. Short title. — These rules may be called “THE MANNER OF AUDIT OF ACCOUNTS RULES”.

2. Place of audit. — The audit of the accounts of a religious institution under Sub-secs.(2) or (3) of Sec.87, shall be made in the office of the institution concerned or at such other place as the Commissioner may by special order direct.

3. Auditor to verify the cash balance. — The auditor shall verify the cash balance and state in the report whether the cash was readily forthcoming for verification.

4. Items to be verified by the Auditor. — The auditor shall, in the course of the audit, verify the debentures, share certificates, Government bonds and other securities and the bank pass book belonging to the institution and report whether they were found correct. The auditor shall also verify whether an inventory register, for the jewels and valuables belonging to the institution, and an appraisalment register, are maintained and if so, whether it is being periodically inspected by such officers as may be appointed by the Commissioner and whether any loss referred to in the appraisalment register of the verification officer was due to neglect, fraud, or theft, and if so, whether the loss has been made good.

5. Contents of the audit report. — The auditor shall report, among other points arising in audit—

(a) whether the accounts and registers required by the Commissioner to be maintained are kept and whether entries are made regularly and properly by the persons responsible for the preparation of bills, chalans, subsidiary registers, etc., and duly checked by the executive authority in charge of the institution;

(b) whether all the immovable properties and rights such as fishery rights, right to long grass in village tanks and the right to the usufruct of trees, not used by the institution for its purposes have been leased out in the prescribed manner and to the advantage of the institution and lease deeds have been taken and adequate securities taken in all cases; and if in any case such properties have not been leased or lease deed have not been taken, what such cases are;

(c) whether the various items of income amounts due to the institution have been realised at the proper times and whether due steps to recover amounts overdue have been taken and, if not, in which cases such action has not been taken and the avoidable defects or otherwise noticed;

(d) whether any claims have become barred by the law of limitation and if so, what such cases are;

(e) whether all collections have been brought into account without delay;

(f) whether any claims have been written off and if so, to what extent and under what authority and whether such authority is competent for the purpose;

(g) whether the expenditure is in accordance with the sanctioned budget and if there are deviations from such budget, what those deviations are;

* as amended by G.O.Ms.No.200, C.T. &R.E., dated 30th May, 1996.

(h) whether every item of expenditure has been sanctioned by the authority competent in that behalf and is supported by a proper voucher;

(i) whether there is any item of expenditure which in the opinion of the auditor is *prima facie*, extravagant;

(j) whether there has been any diversion of funds or properties for purposes other than those of the institution;

(k) whether advances made have been recouped or adjusted without delay;

(l) whether moneys not required for immediate expenditure have been deposited or lodged in banks as per rules and surplus funds have been invested properly;

(m) whether all donations or offerings in kind are accounted for;

(n) whether in respect of building works check-measurement was done before final payment was made and whether the necessary subsidiary accounts and registers such as measurement books, stock, books muster rolls, tenders and agreements are kept;

(o) whether in the case of supplies tenders have been called for, wherever needed, and scrutinized, and accepted or confirmed as per relevant rules;

(p) whether securities have been obtained from the staff in charge of collection or valuables, security, bonds got executed; and

(q) whether there has been any violation of any of the scheme provisions, if the institution governed by a scheme or of the rules framed under notifications, if the institution has been notified.

6. Appendices to audit report. - The auditor shall append to his report—

(a) a statement of receipts and charges under the budget heads;

(b) a statement of receipts and charges of paddy and other grains;

(c) Abstract of audited accounts;

(d) a consolidated statement of the demand, collection and balance of all items of revenue or income or decrees both arrears and current outstanding in cash and in kind;

(f) a statement of the assessable income for the fasli as per rules ; and

(g) names and period of office of all the trustees in office and Executive Officers during the audit period and those in the previous term.

7. Abstract of the accounts audited. - The auditor shall prepare an abstract of the audited accounts (receipts and charges and balance-sheet) and submit two copies thereof along with the audit report.

8. Publication of the abstract. -. One copy of the abstract of audited accounts shall be forwarded by the Assistant Commissioner, ¹[Joint Commissioner/Deputy Commissioner, or the Commissioner, as the case may be], to the trustee of the religious institutions for publication. The trustee shall, on receipt thereof, publish the abstract on the notice-board of the institution or other conspicuous place in the premises of the institution. Where the institution is a specific endowment, the abstract shall be published on the notice-board or other conspicuous place of the Math or temple to which it is attached. Where the specific endowment is attached to more than one Math or temple, the abstract shall be published on the notice-board or other conspicuous place of any one of the math's or temples as the Assistant Commissioner or Joint Commissioner or the Deputy Commissioner or the Commissioner, as the case may be, may determine. The Commissioner may in the case of an institution, the accounts of which are subject to concurrent

1. The words substituted by G.O. Ms.No.200, CT&CE. dated 30th May, 1996.

audit under Sub-sec.(3) of Sec.87, direct that the abstract of audited accounts shall in addition be published in any newspaper or in any other manner.

THE FURNISHING OF SECURITY BY OFFICERS AND SERVANTS RULES

[Published in the Fort St. George Gazette part V, page 1077, dated 25th October, 1961]

[G.O. No.4055, Revenue, dated 26th September, 1961]

S.R.O.No. A-1039 of 1961.—In exercise of the powers conferred by Clause (xvi) of Sub-sec.(2) of Sec.116, of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules

RULES.

1. Short title. - These rules may be called "THE FURNISHING OF SECURITY BY OFFICERS AND SERVANTS RULES"

2. Executive Officer to furnish security. - Every Executive Officer appointed either temporarily in the place of any other Executive Officer or otherwise for a religious institution under any of the provisions of the Act or in pursuance of any scheme settled or deemed to be settled thereunder shall furnish security and execute a security bond in the name of the Governor of Madras.

Provided that the Government may, on the recommendation of the Commissioner:

(i) exempt, subject to such conditions as the Government may fix, any part of the security; or,

(ii) permit any other person to furnish his immovable property as security on behalf of the person appointed or proposed to be appointed as Executive Officer, subject to the condition that such other person executes jointly with the person appointed or proposed to be appointed as Executive Officer, a security bond in the name of the Governor of Madras.

3. Amount of security to be furnished. - The amount of security to be furnished by an Executive Officer shall be regulated by the income of the institution to which he is appointed and be at the rates specified in the Appendix.

4. Period within which security is to be furnished. - (1) No Executive Officer who holds office on the date of the coming into force of these rules, shall continue to hold office, if he does not furnish security before the expiry of three months after these rules have come into force.

(2) No person first appointed to any post for which security has to be furnished shall assume office, unless he furnishes the security fixed for the post within fifteen days of the receipt of the order of appointment or unless he is exempted under the Proviso to Rule 2.

(3) When a person holding a post for which he has furnished security is appointed to another post for which the prescribed security is higher than the amount of security already furnished by him, or is appointed to an additional post for which security has been fixed, he shall not continue in the new post, if he does not, within three months of his assumption thereof, furnish the required additional security.

5. Government may extend the time for furnishing security: - Notwithstanding the provisions of Rule 4, the Government may extend the time for furnishing the security or the additional security

6. Form of a security. - The security to be furnished by a person may be in the form of—

(a) Cash; or

(b) Promissory notes of the State Government or any other State Governments or the Union Government or Municipal Debenture or Port Trust bonds; or

(c) Stock certificates of the State Government or any other State Government or the Union Government; or

(d) Post office Savings Bank deposits; or

(e) Post office cash certificates and National Savings Certificates; or

(f) deposit receipts of the Madras Provincial Co-operative Bank, a Central Co-operative Bank approved by the Registrar of Co-operative Societies, [Chennai], for deposit of the funds of Local Boards and Municipalities or a Scheduled Bank as defined in the Reserve Bank of India Act, 1934; or

(g) Unencumbered immovable property;

Provided that in the case of Executive Officers not belonging to the Scheduled Caste, the security to be accepted may be in the form of fidelity bond:

Provided further that in the case of an Executive Officer belonging to the Scheduled Caste, security shall be accepted in the form of a fidelity bond, if such officer is unable to furnish security in any one of the forms specified above:

Provided that the security may, with previous permission of the Commissioners be furnished partly in one and partly in another of the forms specified above.

7. The provisions of the [Tamil Nadu] Financial Code to apply to security.-

(1) Where security is furnished in any of the forms mentioned in Clauses (b) to (f) of Rule 6, the provisions of the [Tamil Nadu] Financial Code relating to the conditions subject to which such form of security shall be accepted, shall apply to such security.

(2) Where security is furnished in the form of cash it shall be invested in any of the forms of securities mentioned in Rule 6 as the person furnishing securities desires and the interest derived from such investment shall be paid to him. No interest shall become in any event payable till the security amount is actually invested.

APPENDIX

Class of institutions	Annual income of the institution	Amount of Security in any form mentioned in Clauses (a) to (f) of Rule 6	Value of immovable property in security if security is offered under Clause (g) of Rule 6.
(1)	(2)	(3)	(4)
I	Over Rs.60,000	Rs.4,000	Rs.8,000
II	From Rs.20,001 to 60,000	Rs.2,000	Rs.4,000
III	From Rs.10,001 to Rs.20,000	Rs.1,000	Rs.2,000
IV	From Rs.5,001 to Rs.10,000	Rs.500	Rs.1000
V	Less than Rs.5,000	Rs.250	Rs.500

In Column 2 for respective entries in column I, the following entries have been prevailing:

1. Over Rs.1,50,000. II. From Rs. 75,000 to 1,50,000. III. From Rs.30,000 to 75,000
- IV. From Rs.10,000/- to Rs.30,000. V. Less than Rs.30,000.

THE MANAGEMENT AND PRESERVATION OF PROPERTIES OF RELIGIOUS INSTITUTIONS RULES, 1964.*

[Published in the Fort St. George Gazette, Part V, Page 1047, dated 21st October, 1964]

[G.O. P. No.1837, Revenue dated 10th July, 1964]

S.R.O.No. A-1031 of 1964. - In exercise of the powers conferred by Clauses (xvii), (xviii), (xix) and (xxii) of Sub-sec.(2) of Sec.116, of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the governor of Madras hereby makes the following rules :-

RULES

1. Short Title. - These rules may be called "THE MANAGEMENT AND PRESERVATION OF PROPERTIES OF RELIGIOUS INSTITUTIONS RULES, 1964."

2. Definitions. - In these rules:

¹[(1). Appropriate authority means:-

(a) in relation to religious institutions published by ¹[the Government] under Sec.46 (i) and 46 (iii) of the Act, if the estimated cost of the works exceeds Rs.50,00,000;

(b) in relation to Religious institutions not published under Sec.46, religious institutions included in the list published ²[the Commissioner] under Sec.46(i) and 46 (iii) of the Act, if the estimated cost of works exceeds [Rs.2,00,000/-] but does not exceed Rs.50,00,000;

(c) [xxx]

³[(d) **The Joint Commissioner subject to revision or cancellations by the Commissioner.** - In relation to all religious institutions included in the list published under Secs.46(i), 46(ii) and 46(iii) of the Act and in respect of all the institutions not published under Sec.46 of the Act, if the estimated cost of the works exceeds Rs.10,000 but does not exceed Rs.2,00,000. In the case of works permitted to be undertaken by Donors without adding any other fund and subject to the conditions that no alterations or additions to the existing structure shall be made, the estimate of which are upto Rs.5,00,000.]

(e) The Executive Officer concerned, subject to revision or cancellation by the Commissioner. - in relation to religious institution having an Executive Officer in the cadre of Joint Commissioner, if the estimated cost of the work does not exceed Rs.2,00,000.

⁴[(f) The Executive Officer concerned, subject to revision or cancellation by the Commissioner.- In relation to religious institutions having an Executive Officer in the cadre of Deputy Commissioner, if the estimated cost of the works does not exceed Rs.10,000,000.

⁴[(g) The Assistant Commissioner having jurisdiction subject to revision or cancellation by the Commissioner. In relation to religious institutions not published under Sec.46, if the estimated cost of the works does not exceed Rs.10,000.

* G.O.No.275 C.T. & R.E., Dept., dated 16th July 1997.G.O.Ms.No.279, Tamil Development, Culture and Religious Endowments, dated 22nd October, 2001.

1. Clause (i) substituted by G.O. Ms. No.261 CT & CE dated 13th day July, 1992.

2. The words "the Government", "the Commissioner" substituted for the expression "the Tamil Nadu Temple Administration Board" and "the Chairman of the Tamil Nadu Temple administration Board" respectively by G.O. Ms. No.275 CT & CE dated 16th July, 1997.

3. Clauses (d) and (e) substituted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

4. Clauses (f), (g), (h) added by *Ibid.*

Provided that the Assistant Commissioner, or the Executive Officer concerned can permit the work upto Rs.1,00,000 if it is undertaken by Donor without the aid of any other fund, subject to the conditions that no alteration, addition, or demolition of any existing structure is done by the Executive Officer concerned subject to revision or cancellation by the Commissioner.

(h) In the case of religious institutions having an Executive Officer in the cadre of Assistant Commissioner if the estimated cost of the works does not exceed Rs.10,000. Provided that Executive Officer concerned can permit the works upto Rs.100,000, if it is undertaken by donor without the aid of, any other fund, subject to the conditions that no alteration, addition, or demolition of any existing structure is done.

(i) The Commissioner in relation to all other cases]

(ii) "building" includes the premises of a religious institution and any building or structure or work to facilitate irrigation and increase irrigation facilities owned by, or in the possession of a religious institution.

(iii) "work" means work relating to the construction, repair, alterations, conservations or renovation of any building or other structure belonging to a religious institution including its premises or work to facilitate irrigation and increase irrigation facilities but not any gopuram, Vimanam, stone mantapam or other stone structure with stucco works belonging to it.

3. Annual report on works to be carried out. – The trustees of a religious institution shall submit to the appropriate authority annually, six months before the end of each fasli, a report on the works, which it is desirable or necessary to carry out during the succeeding fasli, setting out the need for and the details of the works and giving a rough estimate of the expenditure involved and of the manner in which the expenditure on the works is proposed to be met.

4. Preparation of Plans and Estimates for works. – (1) When the proposal of a trustee to execute any work is approved by the appropriate authority, detailed estimates shall be prepared and submitted along with the plan, if any, to the appropriate authority.

(2) Detailed plans and estimates shall be prepared by persons having the qualification and status specified in Annexure 1 to these rules from out of a panel approved by the Government from time to time:

Provided that these qualifications and status shall not apply to any officer specifically appointed by the Government for the purpose, or any technical person from among the staff of the Hindu Religious and Charitable Endowments (Administration) Department.

(3) The measurement of work shall be recorded by a retired supervisor or Overseer of public works or highways department or one possessing an equivalent qualification with a minimum service of three years. The check measurement of works shall be done by an Assistant Executive Engineer or Divisional Engineer of Public Works or Highways Department irrespective of the cost of works or by a private Engineer selected by the competent authorities from the aforesaid panel.

The Divisional Engineer, Highways Department or an Executive Engineer of the Public Works Department shall carry out super check of major works where such items warrant his inspection as in Highways or Public Works Department and could select works which may be not more than three in a year:

Provided that the Superintending Engineer of the Highways Department of Senior rank shall function as an advisor in the field of Engineering in preparation and disposals of estimates and tenders:

Provided that in the case of check measurement private or retired person selected from the panel approved by the Government shall be from a grade higher than those competent to prepare estimates and plans for the different rates of works mentioned in Annexure I and when person in active service or selected, centagu charges at a rate not exceeding one percent of the estimated cost of works subject to minimum of rupees five in each case shall be levied and credited to the Government:

Provided also that in the case of institution, where a technically qualified person employed with the sanction of the competent authority, the preparation of estimates and plans, measurement and check measurement and supervision of works may be got done by such technically qualified persons in respect of item of work costing less than Rs.5,000 in each case:

Provided also that for the purpose of check measurements of works, the officers of public works and highways department in actual service may be preferred as far as possible.]
Sub-rule 3 of Principal Rules

(4) In the case of private or retired persons noted in Annexure I the trustee or trustees of religious institutions may fix the rate of fee in each case, subject to a maximum of one per cent of the estimated cost of the work and to a minimum of Rs.24 in each case for preparing, scrutinizing and countersigning the plans and estimates.

5. Estimate of works.- The estimate of work shall consist of (a) a report, (b) a specification, (c) detailed statement of measurements and quantities, (d) data sheet or rates, wherever necessary, and (e) an abstract showing estimated cost of each item. In the case of all works of importance, the estimate should be accompanied also by a plan showing the design.

6. Report. - The report shall state in clear terms the object to be gained by the execution of the work estimated for, and explain any peculiarities which require elucidation, including wherever necessary, the reasons for the adoption of the estimated project or design in preference to others.

7. Specification. - The report shall be followed by the specifications, which must show fully and clearly, but as briefly as possible, the details of the work, how each portion is to be done, and what materials are to be used.

8. Statement of measurement. - A statement of the detailed measurements shall accompany the specifications.

9. Abstract of estimates. - The abstract of estimate for all works except miscellaneous petty works shall show the total cost (in whole rupees) of each kind of work and the detailed measurements as required in Rule 8. In the case of miscellaneous petty works however, the abstract need show only the estimated cost.

10. Works not purely secular. - (1) Proposals in regard to works that are not purely secular shall be framed with due regard to the principles and practice of traditional architecture and to the need for preserving architectural, sculptural and archaeological features.

(2) White washing and painting may be done only for non-granite structures, which do not contain any inscriptions or other sculptural works.

11. Execution of building works by worshipper or other person. - Whenever a worshipper or other person offers to donate the cost of or to execute any building works, the trustee shall obtain from him details of his proposals and if he proposes to undertake the works himself, a statement showing the manner in which the necessary finances for the execution of the works will be made available and the time within which the construction will be completed and forward the details or statement as the case may be to the appropriate authority with his remarks

whether the said offer may be accepted and if so, on what conditions.

12. Submission of plans and estimates to appropriate authority. - (1) On the appropriate authority approving the proposal of the trustee to execute the works from the funds of the institutions, the trustee shall prepare detailed estimates for the works proposed, make provision in the budget for the proposed expenditure and submit the estimates along with plans to the appropriate authority.

(2) When the appropriate authority approves the trustee's proposal to allow a worshipper or other persons to execute any building works and settles the conditions on which such permission may be granted, the trustee shall obtain from such worshipper or other person, detailed plans and estimates for the works proposed and submit them to the appropriate authority with his remarks.

13. Sanction of plans by appropriate authority. - (1) The appropriate authority may sanction the plans and estimates submitted under Rule 12 with such modifications and subject to such condition, as it may deem fit and where the cost of the construction is to be met from the funds of the institution, sanction the necessary expenditure.

(2) The appropriate authority may decide whether the building work is to be made departmentally or through contractors.

14. Supervision, control, and inspection of building works.—In all cases in which a building work is undertaken either departmentally or otherwise, such work shall be subject to supervision, control and inspection at a cost not exceeding 5 per cent of the estimated cost of the works as may be fixed by the appropriate authority as and when the appropriate authority deems fit and the said authority may, at any stage of the execution, order such check-measurement and control as may be deemed essential, before the work is further proceeded, with or further expenditure incurred.

15. Execution of minor building works in anticipation of sanction.— A trustee or the Board of Trustees as the case may be, shall not undertake or commence any building works without the sanction of the appropriate authority, provided that minor repairs, which cannot be postponed, owing to urgency, may be executed in anticipation of sanction applied for.

16. Deviations from plans and estimates not to be made without sanction.— (1) A trustee or the Board of Trustees as the case may be, shall not, except with the written sanction of the appropriate authority, exceed the expenditure sanctioned or deviate from the plans and estimates approved by the said authority.

(2) A trustee or the Board of Trustees as the case may be, shall not permit any worshipper or other person to commence the execution of any work or deviate from the plan approved by the appropriate authority without the permission of that authority.

17. Obtaining supplies. - (1) In the case of supplies, the trustee or the Board of Trustees, as the case may be, may decide—

(a) whether purchases may be made without or in advance of the preparation of the estimates;

(b) whether estimates shall be prepared for the purpose of articles required for the whole of the fiscal year or for shorter periods

(c) whether either generally or for any class of cases or specially for any particular case, supplies shall be obtained by contract or otherwise.

(2) Where the amount of estimates prepared by the trustee or the Board of Trustees, as the

case may be, for purchase of supplies exceeds Rs.250, the estimates shall be sent to the appropriate authority for sanction.

¹[18. **Tender to be called for.** - (1) Tender should invariably be called for, when the amount involved in a particular contract is Rs.5,000 or more. This rule does not admit a major work being split into parts, each costing less than Rs.5,000 and each part being given out on contract without calling for tender.

(2) In all cases where works are to be executed or supplies are to be made by contract, tender shall be invited—

(a) by publication of advertisement in one or more daily newspapers having circulation in the area in which the institution is situate; or

(b) by publication of notice in the form shown in Annexure II in the language of the locality) by affixture—

(i) on the notice-board or the front door of the institution;

(ii) on the notice-board of the panchayat office or if there be no panchayat, of the village chavadi; and

(iii) on the notice-board of the office of the Assistant Commissioner having jurisdiction over the area in which the institution is situate.

Such advertisement shall contain information as to when and where and to whom the tenders are to be submitted and when and where and by whom they are to be opened.

²[(3) In case of works costing Rs.50,000 (Rupees fifty thousand only) or more, notice inviting tenders shall invariably be published in one or two important newspapers.]

(4) the tenderers shall have free access to contract documents.

19. Advertisement or notice calling for tenders. - Every advertisement or notice published under Rule 18 shall also state:

(1) When and where the contract documents may be inspected and the blank forms of tender can be obtained and also the amount to be paid for copies of plans or other tender documents;

(2) the amount of earnest money to accompany the tender and the amount and nature of the security deposit required in the case of the accepted tender.

- In the case of lumpsum contracts, the amount of earnest money and that of the additional security, and in the case of piece work contracts, the amount of earnest money, should each be two and half per cent of the sanctioned estimated figure, when the contract is for all the items of work included in the estimate or two and half percent of the estimated amount of the contract, when the contract is only for part of the work included in the estimate.

(3) the authority competent to accept the tender;

(4) that the authority competent to accept the tender reserves the right to reject any or all of the tenders received without assigning any reason;

(5) that on tender will be accepted unless it is submitted in duplicate in a sealed cover and is in the form specified in Annexure II.

(6) that no tender shall be accepted from any person directly or indirectly connected with Government service or the service of a religious institution.

1. Sub-rule (1) substituted by G.O. Ms.No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

2. Sub-rule (3) substituted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

20. Procedure for acceptance of tenders.—The trustee or whether there is a Board of Trustees, the Chairman thereof or any trustee empowered by the Chairman in this behalf shall, at the time and place specified for the purpose, open the sealed covers containing the tenders in the presence of such of the tenderers or their agents as may be present, and until the sealed covers are so opened, they shall be kept in the personal custody of the trustee or the Chairman, as the case may be.

21. Over-writings, etc., in rates tendered.—Over-writings, erasures or alterations in the rates tendered shall not be admitted unless they are attested by the tenderer with date. The trustee or Chairman, as the case may be, shall immediately on opening the covers, attest with date all such over-writings, erasures or alterations. If there are corrections in the tender unattested by the tenderer, a note of such corrections shall be made on the tender itself when it is opened.

22. Preparation of comparative statement of the rates tendered.— The trustee or Chairman, as the case may be, shall prepare or cause to be prepared, a comparative statement of the rates tendered by the different tenders and when opening the tenders, shall keep a personal note of the total number of tenders opened by him and verify therewith the number in the comparative statement of the tenders.

After the preparation of the comparative statement and before the selection of a tenderer, the trustee or the Chairman, as the case may be, shall examine all the tenders and satisfy himself, that no corrections, which were not in the tenders at the time he received them, had been made in any of them.

23. Acceptance of tenders.—All tenders for works or supplies shall be accepted only after taking into consideration the financial status of the tenderers, their capability, the security offered by them, and the record of their execution of any works previously. Ordinarily the lowest tender shall be accepted. If in any case, it is decided to accept any tender other than the lowest tender, the trustee or the Board of Trustees as the case may be shall prepare a confidential record containing the reasons therefor on the comparative statement referred to in Rule 22 and send all the tenders and the comparative statement prepared under Rule 22 to the appropriate authority, who shall have power to pass final order. The acceptance or rejection of tenders is left entirely to the discretion of the trustee or the Board of Trustees, as the case may be, and no tenderer can demand the cause of rejection of his tender to be divulged to him. Such an explanation may, however, be called for by a superior authority, if considered necessary. Tenders received by religious institutions in respect of works, monetary limits of which is specified in Column (1) below shall be sanctioned by the authorities of the department specified in the corresponding entries in columns (2) and (3) thereof respectively.

Explanation (1) If the tenderers are scrutinised by a retired technical person, it shall be by a person of the next higher grade.

(2) The Commissioner shall have power to delegate all or any of the powers under this Rule to any subordinate authority including those serving in religious institutions on deputation and such delegation to technical persons shall always be subject to the monetary limits prescribed above; and

(3) Notwithstanding the provisions of the Sub-rule (1), the decision of the trustee or the board of trustees, as the case may be, in respect of tenderers for works and supplies, the amount for value of which exceeds Rs.5000 shall be subject to confirmation of the appropriate authority.

Monetary Limit	Technical authority competent to scrutinize tenders	Administrative authority to approve tenders
Upto Rs. ¹ [10,000/-	Assistant Engineer of the Highways or Rural works Department and Public Works Department	In the case of religious institutions not published under Sec.46, the Assistant Commissioner having jurisdiction and the Assistant Commissioner/Executive Officer concerned in the case of Religious Institutions having an Executive Officer in the cadre of Assistant Commissioner, subject to revision or cancellation by the Commissioner.
Above Rs.10,000 but below Rs.1,00,000	Assistant Divisional engineer of the Highways and Rural Works Department Assistant Executive Engineer of Public Works Department.	In the case of institutions having an Executive Officer in the cadre of Deputy Commissioner subject to revision or cancellation by the Commissioner.
Above Rs.1,00,000/- but below Rs.2,00,000	By the Divisional Engineer of the Highways and Rural Works Department or Executive Engineer of Public Works Department.	In the case of religious institutions included in the list published under Secs.46 (i) and (ii) and all the institutions not published under Sec.46 of the Act, the Joint Commissioner having jurisdiction and the Joint Commissioner or Executive Officer in respect of religious institutions having an Executive Officer in the cadre of Joint Commissioner subject to revision or cancellation by the Commissioner.
Above Rs.2,00,000/- but below Rs.50,00,000	By the Superintending Engineer of the Highways and Rural works or Public Works Department.	The Commissioner subject to the notification or cancellation by the Commissioner.
Above Rs.50,00,000	By the Superintending engineer of the Highways and Rural works or Public Works Department.	The Government.]

24. Form of security in contracts: - The form of security to be taken in the case of piece work contracts shall be as laid down in the conditions specified in the tender for piece-works in Annexure II. The form of security to be taken in the case of contracts based on the lumpsum tender system as defined in the Madras Detailed Standard Specification shall be as laid down in the form of the tender notice and articles of agreement.

1. Table in Rule 23 substituted by G.O. Ms. 275 CT&CE, dated 16th July, 1997.

25. Contracts on behalf of religious institution. Every contract made on behalf of a religious institution shall be in writing in the common form prescribed in the Madras Financial Code for Departments other than the Public Works Department,

26. Execution of contract. - Every contract, shall be executed by the contractor and by the trustee.

27. Matters to be specified in contracts. - (1) every contract shall specify -

- (a) The quality and quantity of the work to be done or of the materials and articles to be supplied;
- (b) The specifications to be complied with;
- (c) The time within which the work is to be completed or the materials and articles are to be supplied;
- (d) The conditions to be observed;
- (e) The security to be deposited;
- (f) The terms upon which payments shall be made;
- (g) The penalties to be imposed; and
- (h) The provisions necessary for safeguarding the properties entrusted to the contractor.

(2) Wherever necessary, a complete set of drawings shall be appended to the contract, showing the general dimensions of the proposed work and the details of the various parts thereof.

28. Variation of terms of contracts.- The terms of any contract shall not be added to or varied without the previous consent of the persons competent to enter into the contract and of the appropriate authority in cases where the decisions of the trustee or the Board of Trustees, as the case may be, in respect of tenders is subject to the confirmation of such authority.

Every addition to or variation of the written contract shall be authenticated by the signature of the parties thereto.

29. Contracts to be in conformity with rules.- Any contract or any addition thereto or variation thereof made or executed otherwise than in conformity with the provisions of these rules shall not be binding on the religious institution concerned.

30. Construction and repair of gopurams, etc., to be entrusted to stapathis. - The construction of any gopuram, vimanam, stone mantapam or other stone structure with stucco works or repairs to such construction of which engineers have no specialized knowledge shall, with the specific sanction of the appropriate authority, be entrusted to any able stapathi selected from the panel of stapathis approved by the Government from time-to-time. The plans and estimates prepared by the stapathis shall be countersigned by a competent engineer as specified in Annexure I, provided that in particular cases where the competent authority is satisfied that such countersignature is not necessary and makes a record in writing to that effect, the competent authority shall dispense with such counter-signature and direct check-measurement of such works by another stapathi or technical officer from the panel approved by Government. The remuneration to be paid to the stapathi shall be on the scale prescribed for private or retired persons in Rule 4.

31. Repairs, alterations, etc., to Antiquities.-(1) A trustee or the Board of Trustees as the case may be, shall not repair, alter, replace, sell, gift away or destroy any antiquities or other objects of interest such a sculptures, carvings, inscriptions or paintings, without the written permission of [the Commissioner] and such permission shall be granted only on obtaining competent advice thereon.

(2) While granting permission under Sub-rule (1) [the Commissioner] shall issue such instructions to the Trustee or the Board of Trustees, as may be necessary, for preservation of works of art, sculpture paintings, antiquities and other articles of interest and the trustees shall be bound to carry out such instructions.

32. Travelling Allowance to officers, private engineers, and stapathis. - The officers and private engineers referred to in the rules shall be paid from out of the funds of the religious institutions concerned, such Travelling Allowance not exceeding the Travelling Allowance admissible to Government servants in the corresponding grades and such inspection fees as prescribed under the rules.

For the purpose of these rules, the stapathis engaged for the works shall be treated as officers under Grade VIII of the Madras Travelling Allowance Rules (pay exceeding Rs. 150 but not exceeding Rs. 240) II class train fare and daily allowance of Rs. 2.44 np. and they shall be paid accordingly.

33. Trustees to afford facilities to officers, etc., for inspection of building works. - The trustees shall be bound to give the officer or stapathi referred to in Rule 32, all facilities for inspection, supervision, verification and check-measurement in the discharge of his functions.

34. Payment of Travelling Allowances.- The Travelling and Daily Allowances and other fees payable to the officers referred to in Rule 32 for journeys in connection with a religious institution shall on sanction by the Commissioner, be paid by the trustee or the Board of Trustees of the institution concerned; and when more than one institution is included in one inspection tour, the travelling allowances shall be borne by all such institutions in such proportion as the Commissioner may deem fit according to the estimated cost of works inspected by the Officers and shall be paid by the trustee or the Board of Trustees as the case may be.

35. Inspection to report the necessity for a building work.- The appropriate authority may either on its own motion or on receipt of requisition from the trustee or the Board of Trustees, depute any officer noted in Annexure I, or any officer in active service in the Public Works or Highways Department to inspect at the cost of the institution and report whether any building work is necessary and on receipt of such report he may direct the trustee or the Board of trustees to incur the necessary expenditure and carry out such work and the trustee shall be bound to do so. Centage charges at the rate of 112 per cent. on the cost of work proposed to be taken up shall be paid from out of the funds of religious institution for inspection by Engineers in service.

36. Maintenance of registers, accounts, etc., in respect of building works.- The trustee or the Board of Trustees, shall maintain books, registers, accounts, vouchers and records in respect of building works, and shall make such reports, as the Commissioner may, by general or special order, direct.

37. Care of structures.- It shall be the duty of the trustee or the Board of Trustees to ensure the utmost care is taken of the architectural, sculptural and archaeological features of every structure in the temple or on its lands in his or its charge.

¹[**37A. Insuring of valuable building.** - The trustee or the board of trustees may ensure if considered necessary, valuable buildings, of religious institutions located in the important and busy localities with the permission of the Commissioner.]

38. Archaeological Department to be consulted regarding building works.- Whenever the Commissioner finds it desirable or necessary, he may consult the Archaeological Survey of India regarding any building work.

1. Rule 37A inserted by G.O. Ms. No. 3451, Revenue, dated 30th December, 1965.

39. Issue of directions by Government regarding building works of a secular character.-(1) (a) In respect of the building works which are purely secular in character, type and design, and which are carried out at the cost of the institution, the Government may direct -

(i) any of the officers referred to in Annexure I or any of the officers in active service of the State not below the rank of an Assistant Engineer of the Public Works Department or Highways Department, or

(ii) any architect in Government service, to inspect or supervise the design or execution of the construction, repair, renovation or alteration of the properties of any religious institution or any building, and on consideration of any report that it may call for, direct the execution of such constructions, repair, renovation or alteration or deviation from any plans.

(b) In respect of building works which are purely non-secular in character, type and design, the Government may direct the Engineer of the Public Works Department or Highways Department or any Engineer included in the panel of Engineers approved by the Government to inspect or supervise with the assistance of a stapathi, selected also from the panel of stapathis approved by Government, in case where the assistance of such stapathi is found to be necessary, the design or the execution of construction, repair, renovation or alteration of the properties of any religious institution of any building, and on consideration of any report, that it may call for, direct the execution of such construction, repair, renovation, or alteration, or deviation from any plans.

(2) (a) The Officers referred to in Sub-rule (1) shall be eligible to draw Travelling Allowance and daily allowance according to the Madras Travelling Allowance Rules and inspection fees at the rate of 1 per cent of the cost of works. The Travelling Allowance, daily allowance and fees shall be paid by the trustee or the Board of Trustees of the institution and be credited to the Public Account of the Government:

Provided that when check-measurement is done, it will include the cost of such inspection also.

40. Trustees to afford facilities to officers, etc., for inspection, etc., of building works, of a secular character.- The trustee or the Board of Trustees shall be bound to give the Officers referred to in Sub-rule (i) of Rule 39, facilities for inspection, supervision, verification, and check-measurement and shall carry out their directions.

41. Exclusion from the operation of these rules. - The Commissioner may exclude any class of institutions or class of works or supplies from the operation of any or all of these rules for good and sufficient cause.

42. Maintenance of register of the immovable properties. - The trustee or the Board of Trustees, of every religious institution shall maintain a register in the form prescribed by the Commissioner showing the other immovable properties including irrigation channels, wells and tanks, owned by the religious institution and record in such register all improvements made to them every year.

43. Trustees to inspect all lands, irrigation works and drainage works of religious institution.- The trustee or the Board of Trustees of a religious institution shall inspect before the end of December every year all the lands including irrigation works and drainage works belonging to the religious institution and take timely action for their proper utilization and removal of damage, mischief or trespass at the end of each fasli, proposals suggesting improvements to lands including repairs to irrigation tanks and channels such as converting waste lands into cultivable lands, single crop, etc., sinking of wells, silt clearance, drainage, etc., which

it is desirable or necessary to carry out during the succeeding fasli, setting out the need for and the details of the works and giving a rough estimate of expenditure involved and the manner in which the expenditure on the works is proposed to be met and the appropriate authority may approve them with such modifications and directions as may be found necessary.

44. Procedure for preparation of plans and estimates for improvement of land.- As regards submission of detailed estimates and plans for improvements to lands approved in Rule 43 their sanction and execution of works concerned, the provisions of Rules 12 to 16 shall *mutatis mutandis* apply-

45. Inspection of works relating to lands by appropriate authority.- (1) The appropriate authority shall inspect all works relating to lands proposed to be undertaken by a trustee or the Board of Trustees from out of the funds of a religious institution at an estimated cost of Rs.500 and above and in other cases, where it is of opinion that there is need for securing technical advice and assistance as to the necessity or nature of such works or for the preparation or scrutiny of plans and estimates, it may, having due regard to the nature and importance and the estimated cost of works, direct the trustee or the Board of Trustees to obtain the advice of the District Agricultural Officer, or Agricultural Demonstrator, who has either retired or is in active service and is residing in the district, in which the lands are situated or the services of such members as mentioned in Rule 32.

(2) The Government may appoint as the appropriate authority for the above purpose-

(a) any officer of the Agricultural Department not lower in rank than a District Agricultural Officer, or

(b) any Engineer in the Public Works Department not below the rank of an Executive Engineer.

46. Allowances and fees admissible to officers referred to in Rule 45. - The officers referred to in Rule 45 shall be paid from out of the funds of the religious institutions such Travelling Allowance, Daily Allowance, inspection fees, fees for the preparation of plans and estimates, scrutiny of plans and estimates, for technical advice or for expert opinion as may be fixed by the Commissioner with regard to the work, not exceeding the Travelling Allowance and Daily Allowance admissible to the Government servants in active service, in corresponding grades and fees that may be leviable under the Public Works Accounts Code and Agricultural Department Manual, if the work is done by the Officers of the Public Works, Highways or Agricultural Department of the State, as the case may be :

Provided that in cases where officers in active service of the Public Works, Highways or Agricultural Department of the State are employed for purposes specified in Rule 45, such charges in accordance with the Public Works Accounts Code and Agricultural Department Manual as may be levied from out of the funds of the religious institutions, shall be credited to the Public Accounts of the Government.

47. Rules 33 to 36 to apply to officers referred to in Rule 45. - In regard to the provision of facilities to the officers referred to in Rule 45, payment of Travelling Allowance and other allowances payable to them, enforcement of their recommendations and maintenance of registers, etc., the provisions of Rules 33 to 36 shall *mutatis mutandis* apply.

48. Government to issue directions in regard to inspection of irrigation source, tanks, etc., belonging to religious institution. - (1) The Government may direct that any irrigation source, tank, well or canal, belonging to a religious institution shall be inspected by an Engineer in Government service not below the rank of an Executive Engineer of the Public

Works Department, and after considering any report called for from such officer direct the trustee or the Board of Trustees concerned through the Commissioner to carry out such steps, as they may deem fit for the improvement of the irrigation source, tank, well or canal and the trustee or the Board of Trustees, shall be bound to carry them out.

(2) The Officer deputed under Sub-rule (i) shall be eligible to draw Travelling and Daily Allowances according to the Madras Travelling Allowance Rules and also an inspection fee at the rate fixed for inspection by Government Officers of the Public Works Department in different grades. The fees and allowances shall be paid by the trustee of the institution concerned and credited to the Public Accounts of the Government.

(3) The trustee or the Board of trustees shall afford all facilities to the officer deputed by Government under Sub-rule (i) in the matter of inspection of the irrigation source, etc.

49. Maintenance of temple cars, palanquins, etc. — The trustee or the board of trustees shall maintain the paraphernalia such as car, vahanams, palanquins, sapparams, in good condition. Proposals regarding their making, repairs, alteration or replacement should be made to the appropriate authority, wherever necessary for sanction at the time of submission of budget, after obtaining the advice of an expert stapathi from out of the panel approved by Government.

50. Register of Idols. — The trustees of every religious institution shall maintain a register of the idols of the temple in such form as the commissioner may prescribe.

51. Sale, gift, or exchange of idols. — No trustee or the Board of Trustees shall gift, sell or exchange any idol or image in a temple without the express previous permission of the Commissioner.

52. Alterations to or melting of idols. — No trustee or the Board of Trustees shall alter the character of, or repair, remove, melt, or replace any metallic or other idol or image in the temple, whether fixed or otherwise, without the express permission of the Commissioner in writing.

53. Formation of Tiruppani Committees. — In the case of temples requiring renovation or 'Tiruppani' works and in need of donations from the public or a Government grant, a Tiruppani Committee shall be formed for each such temple for the purpose.

54. Tiruppani Committee Members and Secretary. — ¹[(1) The Tiruppani committee shall consist of the trustees of the temple as ex-office members and such other members as may be co-opted by the trustees. The formation of the committee and the names of its members shall be reported. —

(a) in respect of the religious institutions not published under Sec.46 of the Act to the Assistant Commissioner having jurisdiction.

(b) In respect of the religious institutions published under Sec.46 (i) and Sec.46 (ii) of the Act to the Joint Commissioner having jurisdiction.

(c) In respect of the religious institutions published under Sec.46 (iii) of the Act where the income of the institutions does not exceed Rs.50,00,000/- to the Commissioner.

(d) In respect of the religious institutions published under Sec.46 (iii) of the Act where the income of the institutions exceeds Rs.50,00,000/- to the government for approval.]

(2) The members shall elect one among themselves as president of the committee.

(3) The Executive Officer of the temple, or in his absence the trustee of the temple, if there is only one trustee or the Chairman, Board of Trustees, as the case may be, shall be the

1. Sub-rule 1 substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Institutions, dated 16th July,

secretary and treasurers and members of the committee. In special cases, any other member of the committee may be elected by the committee as Treasurers, subject to the approval of the appropriate authority. The treasurers shall attend to the correspondence, maintenance of accounts relating to the collection of donors, etc. and expenditure incurred out of them.

¹[(4) The government in respect of religious institutions published under Sec.46 (iii) of the Act where the income of the institutions exceeds Rs. 50,00,000 and the Commissioner in all other case, may suspend or remove from office, any member of the Tiruppani Committee including a member of the Tiruppani Committee for sufficient cause after giving him an opportunity of showing cause against such removal and after considering his explanation.]

55. Meetings of Tiruppani Committee. - The meeting of the committee shall be convened by the Secretary as often as necessary and at least once a month and all matters pertaining to the Thirupani work including accounts of collections and expenditure shall be placed at the meeting.

²[**56. Collections by Thiruppani Committee.** - Collections shall be made by the issue of printed duplicate receipts with separate serial number specifically printed for the purpose. The treasurer shall sign and issue the original receipts and retain the duplicate with him. In addition, the Tiruppani committee with due sanction from the appropriate authority print Tiruppani donations tickets in the name of the temple in denominations-wise and use them for collections, after getting the seal duly affixed by the appropriate authority of the department. The treasurer shall be responsible for the credit of all collection through issue of such tickets. Such tickets should not be handed over for all collections to the persons not connected with the administration of the temple or Tiruppani committee. the collection realized shall be deposited then and there in an approved bank in a separate account as "temple tiruppani fund". as and when moneys are required to be withdrawn, the president and the treasurer of the committee will jointly draw from it by issuing cheques. The cheque book and pass book shall be in the custody of the treasurer.]

57. Submission of estimates by Tiruppani Committee. - The tiruppani committee shall submit duly prepared plans and estimates for the works proposed to be undertaken and obtain the previous approval of the appropriate authority before commencing the works.

³[**58. Payments to contractors by Tiruppani Committee.** - Payments to contractors or workmen shall be made only after check-measurements and on bills countersigned by the president of the Tiruppani committee. In case of resignation or removal or demission of president of tiruppani committee, assistant commissioner, deputy commissioner, joint commissioner and commissioner as the case may be, shall authorize the Executive Officer to pay the legitimate dues.]

⁴[**59. Audit of accounts maintained by Tiruppani Committee.** - The accounts maintained for the collections made and expenditure incurred by the tiruppani committee subject to audit by the auditors appointed under Sub-sec.(2) of Sec.87 of the act and report of such audit

1. Sub-rule (4) substituted by G.O. Ms. No. 275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

2. Rule 56 substituted by G.O. Ms No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

3. Rule 58, substituted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

4. Rule 59 substituted by G.O.Ms.No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

shall be binding on the tiruppani committee and the provisions of Sec.90 of the act shall apply in this case.]

ANNEXURE I.

(See Rule 4.)

Serial Number	Estimated Cost of Work	Status of private individuals competent to prepare plans and estimates.	Status of Department Staff Competent to Counter-sign Plans and estimates.
1.	Up to and inclusive of Rs.5,000	An upper subordinate or L.C.E. with experience in the profession for a minimum period of 3 years.	An Assistant Engineer, Public Works or Highways Department
2.	Above Rs. 5,000 but not more than Rs. 40,000.	A corporate member of the Institution of Engineers (India) or one possessing an equivalent qualification with experience in the profession for a minimum period of 8 years.	Executive Engineer, Public Works Department, or Divisional Engineer, Highways Department.
3.	Above Rs.40,000 but not more than Rs. 2,00,000	A corporate member of the Institution of Engineers, (India), or one possessing an equivalent qualification with experience in the profession for a period of not less than 10 years.	Superintending Engineer P.W.D or Highways Department.
4.	Above Rs.2,00,000.	Do.	Chief Engineer P.W.D. of Highways Department.

60. Direction of appropriate authority by Tiruppani Committee. - The Tiruppani Committee shall carry out directions as may be issued and abide by such conditions as may be imposed by the appropriate authority in this behalf in the due discharge of their duties and other matters connected with the 'Tiruppani Works'.

61. Painting of building works. - The trustee of every religious institution shall carry out painting of building works and the paraphernalia by an expert painter chosen from the list of painters approved by the Government after obtaining sanction from the appropriate authority.

ANNEXURE II

[See Rule 18.]

Instructions to tenderers, form of tender, etc..

1. A list of materials proposed to be supplied by (name of institution) (hereinafter referred to as 'the institution') and the places where, and the prices at which, they are proposed to be supplied is given at the end of the schedule accompanying the tender notice. This should be entered by the tenderer also at the end of the schedule accompanying the tender. Tenderers must accept the materials at the specified prices and quote for the finished work accordingly. Not

withstanding any subsequent change in the market value of those materials, the change to the party executing the work will remain as originally entered in the agreement to be executed. If at any time subsequent to the execution of this agreement, materials of the institution other than those specified in the agreement are to be supplied to the piece-worker for use on the work, they will be charged at the market value prevailing at the time of supply, or stock issue rate whichever is greater. The piece-worker will be informed in writing of this change and he should intimate in writing the rate which he demands for finishing work in view of the fact he is to use materials of the institution. No cartage or incidental charges shall be borne by the institution in connection with the supply of materials (referred to in this paragraph) **N.B.-** Piece-work is that which involves a payment for work done at stipulated rate only without reference to total quantity or time, and a piece-worker shall be understood accordingly.

2. Subsidiary item, such as water for work, clearing and marking out site, hire of tools and plant should be separately entered. If such items are not so entered, it will be assumed that the rates quoted in the schedule include provision for them also.

3. The tenderer shall examine closely, the Madras Detailed Standard specifications and also the relevant clauses of the standard preliminary specification contained therein, and sign the office copy in the office of the institution of the Madras Detailed Standard Specification and its Addenda. Volume in token of such study before submitting his tender unit rates which shall be for finished work '*in situ*'. He shall also carefully study the drawings and additional specifications and all the documents, which form part of the agreement to be entered into by accepted tenderer.

4. Each tenderer must also send a certificate of income-tax verification from the appropriate income-tax authority in the form prescribed therefore. In the case of proprietary or partnership firm. It will be necessary to produce the certificate aforementioned for the proprietor or proprietors and for each of the partners, as the case may be. If a certificate had already been produced by the tenderer during the calendar year in which the tender is made in respect of a previous tender, it will be sufficient of particulars regarding the previous occasion on which the certificate was produced are given. All tenders received without a certificate as aforementioned will be summarily rejected.

5. Every tenderer is expected, before quoting his rates, to inspect the site of the proposed work. He should also inspect the quarries, and satisfy himself about the quality and availability of materials. The name of quarries, kilns, etc., wherefrom certain materials are to be obtained will be given in the descriptive specification defined shall be used on the work. In every case the materials must comply with the relevant standard specifications. Samples of materials as called for in the standard specifications, or in this tender notice, or as required by the trustee/chairman of the Board of trustees of the institution shall be submitted to him for approval before the supply to site of the work is begun. If the contractor after examination of the source of materials defined in the Descriptive Specification Sheet, is of the opinion that materials complying with the standard or other specification of the contract can be obtained in quality or sufficient quantity from the source defined in the Descriptive Specification Sheet, he shall so state clearly in his tender and state wherefrom he intends to obtain materials subject to the approval of the trustee or board of trustees of the institution. Attention of the piece-worker is directed to the standard preliminary specification regarding payment of seigniorage, tolls, etc.

6. The tenderer should quote specific rates for each item in the schedule, the rates should be in rupees and naye paise. The units and rates should be written both in words and figures. The

schedule accompanying the tender shall be written legibly and free from erasures, over-writings or conversions of figures. Corrections where unavoidable, should be made by cross-out, initialing, dating, and re-writing. No alteration, which is made by the tenderer in the agreement from the condition of agreement, the drawing or specifications accompanying the same will be recognized and if any such alterations are made, the tender will be *void*.

7. The tenderer should sign each and every page of the tender document

Tender for piece-work.

To
The Trustee/Chairman of the Board of Trustee,
(Name of the institution and address).

No. of 19

() do hereby tender to execute works for the (name of institution) of the under-mentioned description by piece-work and in accordance with the conditions noted below and the rules set forth in Schedule B below in consideration of payment being made for the quantity of work executed at the respective rates specified in Schedule A below:

I/We hereby distinctly and expressly declare and acknowledge that before the submission of my/our tender, I/We have carefully followed the instructions in the tender notice and have read the Madras Detailed Standard Specifications and the relevant clauses of the preliminary specification of the Madras Detailed Standard Specifications, and that I/We have made such examination of the contract documents and of the specifications, etc., and of the location where the said work is to be done and such investigation of the work required to be done and in regard to the materials required to be furnished as to enable me/us thoroughly to understand the intention of the same and the requirements, covenants, agreements, stipulations and restrictions, contained in the contract and the said specifications; and distinctly agree that I/We will not hereafter make any claim or demand upon; the institution-based upon or arising out of any alleged misunderstanding or misconception or mistake on my/our part of the said requirements, covenants, agreements, stipulations, restrictions, and conditions. We enclose an income-tax verification certificate/have already produced an income-tax verification certificate during the current calendar year in respect of (here particulars of the occasion on which the certificate was produced should be given).

SCHEDULE A

Name of Work.

Name of item	Class and description of work to be executed	M.D.S.S.* other Number special specification, if any.	Unit of calculation (in figures and in words)	Rate of payment (to be entered both in figures and in words one below the other).
(1)	(2)	(3)	(4)	(5)

* Enter S.S. before the number if it is an M.D.S.S. number.

NOTES. - (1) Enter below the schedule a list of drawing and descriptive specifications sheet with relevant extracts from pages 522, 523, and 524 M.D.S.S items, as may otherwise be applicable *vide* also paragraph 1 of directions to parties tendering.

(2) The tenderer should affix his signature at the end of each page of his tender and other documents attached thereto. The accepting authority should similarly affix his signature to the accepted tender.

Conditions

1. The trustee or the Board of trustees of the institution shall within a period of two months from the date of acceptance of the agreement by the competent authority give to the contractor full and complete particulars of the work to be done hereunder and within like period permit the contractor and his workmen free access to the site on which the work is to be executed. On receiving such particulars and permission, the contractor shall forthwith start the work and shall carry on the same with due diligence and all work executed is to be done in a workman-like manner. The decision of the trustee or Board of Trustees of the institution as to the rate of progress and the quality of work or materials shall be final. The contractor shall have the right to cancel the contract and obtain refund of his earnest money if such particulars and/or permission are not given within the said period of two months.

2. The following clauses of the Standard Preliminary Specification of the Madras Detailed Standard Specification, only subject to the modifications noted below shall apply to this agreement.

Standard Preliminary Specification

Section A. - All clauses, except that, in Clauses 2 and 3 where the Preliminary Specification is mentioned, the reference shall be only to such clauses of the Preliminary Specification as are herein made applicable to this agreement.

Section C. - All Clauses except 15 (b).

Section D. - All Clauses except that in Clause 28, in place of the words 'within six months from the completion of read 'before final payment for'.

Section E. - All clauses except that in Clause 35, the word 'which' occurring between the words 'Progress' and 'in' in the first sentence shall be deleted as also the concluding portion of that sentence beginning from 'will'. The following shall be substituted for the present clause 42.

"The Trustee/Chairman of the Board of Trustees of the institution shall be responsible for the correct setting out of all works but the piece-worker shall provide at his own cost all labour, materials and staff required for so doing."

Section F. - All clauses.

Section G. - All clauses except Clause 56.

Section KJ. - Clauses 64 to 67 inclusive, second sub-paragraph of Clause 68, Clauses 70, 71 and 72.

3. The quantity of work executed shall be measured and payment made ordinarily monthly. On the completion of the work, or the termination of this agreement, final measurements will be made, and the account adjusted accordingly.

4. The Trustee/the Board of Trustees of the institution may put an end to this agreement at his/their option at any time, and, in the case of bad work or materials, action shall be taken as provided in clause 27 (c), of Standard Preliminary Specification.

Note. - If action is taken as provided in the last Sub-paragraph of Clause 27 (c), of Standard Preliminary Specification, the piece-workers' agreement to the reduced rates shall be taken in writing. -

5. The Trustee/the chairman of the Board of Trustees of the institution may fine the piece-worker; not less than Rs.10 and not more than five per cent of the value of completed work for slow progress of work provided however that any authority higher than the Trustee/the Chairman of the Board of Trustees may in his absolute discretion waive or modify any fine imposed by the Trustee/Board of Trustees.

6. Any unforeseen additional work that may become necessary and is accordingly carried out under this agreement under proper written orders shall be measured and valued by the Trustee/Chairman of the Board of Trustees, or his representative at the rates contained in the piece-workers' original schedule and if these rates do not apply, then prior to execution of the additional work, a rate for such work shall ordinarily be agreed upon and entered in a supplemental schedule and signed by both the piece-worker and the accepting authority. If it is not possible to arrive at such an agreement then the piece-worker shall be paid according to the cost of labour employed and the materials used to which will be added ten per cent to cover the piece-worker's profit on the said work on his delivery of the necessary vouchers to the executive authority of the institution.

7. The earnest money deposited by the selected piece-worker shall be retained as security for the due fulfillment of the agreement. After the work has been carried out by the piece-worker to the extent of twenty times the value of his security deposit, a deduction of five per cent of the value of further work done by him shall be made for purposes of additional security from each intermediate bill to be paid to him until the completion of the work. Such deposit and/or deduction of any portion thereof may, at the discretion of the Trustees/Board of Trustees of the institution be forfeited on failure or non-fulfillment by the piece-worker of any of the above conditions. Any authority higher than the one who ordered a forfeiture under the provisions of this clause, may in his absolute discretion waive or modify the forfeiture so levied.

Date:

Witness:

Signature of the party making the tender.

Residence

Accepted by me on behalf of
Hindu Religious and Charitable Endowments.

(Name of the Institution)

Note. - While accepting the agreement, the accepting authority should specify on the first page of this document the number of pages in the agreement and the number of items in the Schedule. A line should also be drawn under the last item in the Schedules.

Articles of Agreement

ARTICLES OF AGREEMENT made this day 19
between the Trustee or the Board of Trustees of (name of the institution) (hereinafter
called the 'said authority' which expression shall, where the context so admits, include his
successors in office and assigns) of the one part and of (hereinafter called "the Contractor" with
expression shall, where the context so admits, include his heirs, executors, administrators, and
legal representatives of the other part);

WHEREAS

(hereinafter called "the Institution") desirous of

and has caused an estimate of probable quantities contained in Schedule A, Drawing in Schedule B, and specifications in Schedule C, describing the work to be done to be prepared;

AND WHEREAS the said Schedules have been signed by or on behalf of the parties hereto;

AND WHEREAS the contractor has agreed to retention by the institution of the earnest money of Rupees paid by him when he submitted his tender as security for the due fulfillment of the contract to the satisfaction of the said authority of the institution, or in the alternative as the said authority may direct, to deposit as security for the above said purpose Government securities, municipal debentures, or Post Office cash certificates to the nominal value of Rupees. duly endorsed to, or registered in or transferred to the name of the executive authority with the previous sanction of the Head Postmaster in the case of the last mentioned security as the case may be;

** AND WHEREAS the contractor has deposited with the said authority the sum of Rupees. in case as additional security for the due fulfilment of the contract to the satisfaction of the said authority;

* AND WHEREAS the contractor has delivered to and deposited with and endorsed over to the authority, Government securities to the extent of Rupees. of which the numbers, amount and other particulars are set forth in the margin hereto as additional security for the amount due to the contract to the satisfaction of the said authority;

** AND WHEREAS the contractor has endorsed over and delivered to the executive authority, municipal debentures to the value of Rupees the numbers and particulars of which not set forth in the margin hereto and such endorsement has been registered in the office as additional security for the due fulfillment of the contract to the satisfaction of the said authority;

** AND WHEREAS the contractor has deposited in the bank at the sum of Rupees in the name of the said authority and has obtained a receipt bearing No. dated, made out in the name of the said authority and the same is now standing to the credit of, and is withdrawal by him on demand as additional security for the due fulfilment of the satisfaction of the executive authority;

** AND WHEREAS the contractor is the holder of the Post Office cash certificates and Defence Savings Certificates of the value of Rupees which have been registered in the Post Office at particulars of which are set forth in the margin hereto and whereas the contractor has deposited with and transferred to the said authority the said certificates with the previous sanction of the Head Postmaster of Post Office in which the certificates been obtained as additional security for the due fulfilment of the contract to the satisfaction of the executive authority;

Note. - Of the five recital clauses relating to "the additional security ranked", the one suitable to the kind of security actually deposited should be retained and the rest scored out with due attestation at the time of the execution of the agreement.

AND WHEREAS the contractor has also signed the copy of Madras Detailed Standard Specifications and addenda volume thereto maintained in the office of the institution in acknowledgement of being bound by all the conditions of the clauses of the Standard Preliminary Specification, and all the Standard Specifications for items of works described by a Standard Specification number in Schedule A;

AND WHEREAS the contractor has agreed to execute upon and subject to the conditions set forth in the Preliminary Specification of the Madras Detailed Standard Specifications and such other conditions as are contained in all the specifications forming part of this contract (hereinafter referred to as "the said conditions") the works shown upon the drawing and described in the said specification and set forth in Schedule A as the "Probable quantities" and comply with the rate of progress noted at the end of the articles of agreement for a sum of Rupees or such other sum as may be arrived at under the clause of the Standard Preliminary Specification relating to "payment of lump-sum basis or by final measurement at unit prices"

Now THOSE PRESENT WITNESS AND IT IS HEREBY AGREED TO AS FOLLOWS:

(1). In consideration of the payment of the said sum of Rupees*

or such other sum as may be arrived at under the clause of the Standard Preliminary Specification relating to "Payment of lump-sum basis or by final measurement at unit prices" the contractor will, upon and subject to the said conditions, execute and complete the works shown upon the said drawings and described in the said specifications and to the extent of the probable quantities show in Schedule A with such variations by way of alterations or additions to, or deduction from the said works, and method of payment therefor as are provided for in the said conditions.

(2) The term executive authority in the said conditions shall mean the Trustee or the Board of Trustees of the institution who shall be competent to exercise all the powers and privileges reserved herein, in favour of the institution** with the previous sanction of the**

(3) The arbitrator for fulfilling the duties set forth in the arbitration clause of the Standard Preliminary Specification shall be the Deputy Commissioner or the Assistant Commissioner for the time being of the Hindu Religious and Charitable Endowments having jurisdiction over the institution to which the works relate.

(4) Time shall be considered as of the essence of the agreement and the contractor hereby agrees to commence the work as soon as the site (or premises) is handed over to him as provided for the said conditions and agrees to complete the work within months from the date of handing over the site (or premises) and to show progress as defined in the tabular statement "Rate of progress" below; subject nevertheless to the provisions for extension of time contained in Clause 59 of the Standard Preliminary Specification.

(5) The said conditions shall be read and construed as forming part of this agreement and the parties hereto shall respectively abide by and submit themselves to the conditions and stipulations and perform the agreement on their parts, respectively.

(6) Upon the terms and conditions of this agreement being fulfilled and performed to the satisfaction of executive authority, the security deposited by the contractor as herein before rectified on such payment thereof as he may be entitled to under the said conditions shall be returned to the contractor, In witness whereof the contractor (name) and (name) of the said authority of the institution for and on its behalf have hereunto set their hands.

In the presence of -1

In the presence of - 2

* To be entered in words and figures.

** Rest of sentence to be struck off, if the execution authority can himself enter into the contract without reference to any higher authority.

Rate of progress.

The following rate of progress and proportionate value of work done from time to time as will be indicated by the executive authority's certificate of the value of work done will be required.

Date of commencement of the programme will be the date on which the site (or premises) is handed over to the contractor.-

Period after date of commencement	Percentage of work completed (based on contract, lump-sum amount)
(1)	(2)

NOTE. - The periods to be entered in Column (1) for the purpose of defining the rate of progress may be fixed by the executive authority to suit each case.-

Schedule of rates and approximate quantities.

To be entered in work and figures.-

Rest of sentences to be struck off, if the executive authority can himself enter into the contract without reference to any higher authority.

Designation of the officer who is competent to approve of the contract under the rules framed under Section 116(2) (xxii) of the Hindu Religious and Charitable Endowments Act; 1959.

SCHEDULE A.**Schedule of rates and approximate quantities**

(a) The quantities given here are those upon which the lump-sum tender cost of the work is borne but they are subject to alterations, omissions, deductions, or additions as provided for in the conditions of this contract and do not necessarily show the actual quantities of the work to be done. The unit rates noted below are those governing payment for extras or deductions for omissions according to the conditions of the contract, as set forth in the Preliminary Specification of the Madras Detailed Standard Specifications and other conditions or specifications of this contract.

(b) It is to be expressly understood that the measure of work is to be taken net, (notwithstanding any custom or practice to the contrary), according to the actual quantities when in place and furnished according to the drawings or as may be ordered from time-to-time by the executive authority of the institution and the cost calculated by measurement or weight at the respective prices, without any additional charge for any necessary or contingent works connected therewith. 'The rates quoted for works "in situ" and complete in every respect.

Probable Quantity	Description	M.D.S.S. number*	Rate		Unit Amount	
Figures			Words	Figures	Words	Figures
			Rs. Np.	Rs. Np.	Rs. Np.	Rs. Np.

Date

(Signature of Contractor)

* Note.— The second sub-division of this column *i.e.*, column (3) is for entering description words such as numbers, cubit feet, lb., etc.

SCHEDULE B.*List of drawings**Supplement list*

Note. - All drawings to be signed by the Contractor as well as the officer entering into the contract

As referred to in the specification (including the preliminary specification of the Madras Detailed Standard Specifications).

Serial Number	Drawing Number	Description	Serial Number	Drawing Number	Description	Date on which the drawing was supplied
---------------	----------------	-------------	---------------	----------------	-------------	--

Date

Signature of contractor

SCHEDULE C.

List of specifications for the various items of work supplementing those described in Schedule A by Standard Specification numbers.

Materials.

(i) Size alternative to standard specification size or size prescribed. Motors and concrete

(ii) Mixes prescribed if deviation from standard specification

Source from which item is Approximate. Remarks to be obtained.

(iii) Masonry joint thickness and deviations

(1)	(2)	(3)	(4)	(5)
Lime				
Surki				
Portland cement				
Sand for mortar works*				
Sand for filling				
Earth for refilling and disposal of surplus*.				
Broken stone for concrete, reinforced concrete, etc				

Broken stone for road work
 Broken brick
 Gravel
 Quarry rubbish
 Rough stone, jelly stone, etc.
 Flooring stone
 Crushed stone
 Cuddapah slabs.
 M.S. Sheets
 Corrugated roofing
 Deviations in gauge
 Bricks (wall)
 (Terrace)
 (flooring)
 and (tiles)
 Flat tiles
 Mangalore tiles
 Pressed ornamental tiles, etc.**
 Teakwood
 Other classes of wood
 Furnishing for doors, windows, etc.
 Standardized items of furniture
 Paints
 Tar
 Wood Oil
 Varnish
 Distemper (brand and number of coats)
 Steel, R. S. Beams, etc.
 Iron work for jail cells—Ventilators, doors, lock boxes cage latrine, etc.
 Cast iron
 Lime mortar
 Surki mortar
 Paintings
 Terrace work
 Deviations if any and proportions, if surki mortar required for any stage.
 Plastering
 Concrete broken stone in lime mortar
 Concrete broken stone in cement mortar
 Reinforced cement concrete
 Brickwork or masonry joints, thickness
 Floor surfacing.

* Insert in the remarks column where excess earth required for filling is to be obtained from, and where excess spoil, if any, is to be carted or conveyed.

** Enter if deviation from Standard Specification procedure, and if iron or brass.

These will usually be purchased from jails—*vide* current price list for the same.

** Enter these are to be supplied from the Salem Jail and if so where contractor shall take delivery of same

Pointing—State if to be done as per “Remarks on Pointing” in M.D.S.S. and included in masonry route.

Deviations in plaster thickness, if any—State with lime mortar or surki cement mortar and proportions.

Tender notice

1. Tenders will be received by the Trustee/Chairman of the Board of trustees (name and address of the institution) at the office of the institution upto p.m. on for the work of

The tender should be in the prescribed form obtainable from the office of the institution

2. Tenders must be submitted in sealed covers and should be addressed to the Trustee/Chairman of the Board of Trustees of the institution, the name of the tenderer and the name of the work being noted on the cover. Tenderers or their authorized agents are expected to be present at the time of opening tenders. The Trustee/Chairman of the Board of Trustees (hereinafter called the said authority) will, on opening each tender prepare a statement of attested and unattested corrections therein and hand it over to the tenderer concerned and initial all such corrections in the presence of the tenderer. If any of the tenderers or their agents finds it inconvenient to be present at the time, then in such case, the said authority will, on opening the tender of the absentee tenderer make out a statement of the unattested corrections and communicate it to him. The absentee tenderer shall then accept the statement of corrections without any question whatsoever.

If the tenders are made by an individual, it shall be signed with his full name, and his address shall be given. If it is made by a firm of partnership, it shall be signed with the firm name by a partner of the firm, who shall also sign his own name. The tenderer shall mention the name and address of each member of the firm. If the tender is made by a Corporation, it shall be signed with its seal by a duly authorized officer who shall produce with his tender, satisfactory evidence of his authorization. Such tendering corporation may be required before the contract is executed, to furnish evidence of its corporate existence.

3. (a) Each tenderer must also send a certificate of income-tax verification from the appropriate income-tax authority in the form prescribed therefor. This certificate will be valid for one year from the date of issue for all tenders submitted during that period.

(b) In the case of proprietary or partnership firm, it will be necessary to produce the certificate aforementioned for the Proprietor or Proprietors and for each of the partners as the case may be. -

(c) If a certificate issued within one year before the date had been produced in respect of a previous tender, it will be sufficient, if particulars, regarding the previous occasion on which the said certificate was produced by the tenderer are given.

(d) Tenders received without a certificate as aforementioned will be summarily rejected.

4. Each tenderer must pay, as earnest money, a sum of Rs. into the Treasury of the Institution and enclose with this tender the chalan endorsed accordingly. The contractors in distant places will be permitted to send their earnest money deposit in the form of a bank draft in favour of the said authority of the institution. This earnest money will be refunded to the unsuccessful tenderer on application, after intimation is sent of rejection of the tender or at the

expiration of two months from the date of tender, whichever is earlier. This refund will be authorised by the said authority of the institution by suitable endorsement on the chalan. The earnest money will be received in cash or currency notes by the said authority of the institution save in exceptional cases where there are receiving treasuries to the institution. When currency notes are given, the tenderer should give his name in full with date on the back of all the currency notes given by him, whatever their denominations may be, the earnest money will be retained in the case of the successful tenderer and will not carry any interest. It will be dealt with as provided in the tender.

5. When a tender is to be accepted, the tenderer whose tender is under consideration, shall attend the office of the said authority of the institution before the end of the period specified in the written intimation sent to him. If the tenderer fails to attend the office of the said authority of the institution before the end of the period specified, his tender will not be considered by the said authority. The tenderer shall, on intimation being given to him by the said authority, of acceptance of his tender by the said authority, make a security deposit of an amount as may be fixed by the said authority at the time of acceptance of tender in one of the following forms. -

- (a) cash, or
- (b) promissory notes of the State Government or any other State Governments or the Union Government, or Municipal Debentures, or Port Trust Bonds; or...
- (c) Stock certificates of the State Government or any other State Governments or Union Government; or
- (d) post office savings bank deposits; or
- (e) post office Cash Certificates and National Savings Certificates; or
- (f) deposit receipt of the Madras State Co-operative Bank, a Central Co-operative Bank: provided by the Registrar of Co-operative Societies, Madras, for deposit of the funds of Local Board Municipalities or a Scheduled Bank as defined in the Reserve Bank of India Act, 1934; and
- (g) unencumbered—immovable property.

The tenderer shall then sign an agreement in the proper departmental form for the due fulfilment of the contract. This security deposit together with the earnest money and the amount with, according to Clause 68 of the Standard Preliminary Specification of the Madras Detailed Standard specifications shall retain security for the due fulfillment of this contract. If a security is made by the contractor, he shall follow the procedure laid down in the preceding paragraph for Payment of earnest money, and such deposit will not earn interest. Failure to enter into the required agreement or to make the security deposit as defined in the paragraph shall entail forfeiture of the earnest money. The written agreement to be entered into between the contractor and the said authority of the institution shall be the foundation of the rights of both the parties and the contract shall not be deemed to be completed until the agreement has first been signed by the contractor and then the said authority on behalf of the institution.

6. The tenderer shall examine closely the Madras Detailed Standard Specification and also the Standard Preliminary Specifications contained, therein and sign the office copy of the Madras Detailed Standard Specifications in the institution and its addenda volume in token of such study before submitting his tender unit rates which shall be for finished work in suit. He shall also carefully study the drawings and additional specifications and all the documents which form part of the agreement to be entered into by the accepted tenderer. The Madras Detailed Standard Specifications and other documents connected with the contract such as specifications,

plans, descriptive specification sheet regarding materials, etc.; can be seen at any time between 11 A.M. on office days in the office of the Executive authority of the institutions.

7. The tenderer's attention is directed to the requirements for materials under the clause "Materials and workmanship" in the "Preliminary Specifications". Materials conforming to the British Standard Specifications shall be used on the work and the tenderer shall quote this accordingly.

8. Every tenderer is expected, before quoting his rate, to inspect the site of the proposed work. He should also inspect the quarries and satisfy himself about the quality and availability of materials. The names of quarries, kilns, etc., wherefrom certain materials are to be obtained will be given in the descriptive specification sheet. The best class of materials to be obtained from the quarries or other source defined shall be used on the work. In every case the materials must comply with the relevant standard specifications. Samples of materials must comply with the relevant standard specification samples of materials as called for in the standard specifications, or in this tender notice, or as acquired by the said authority of the institution before the supply to be submitted for the approval of the said authority of the institution before the supply to site of work is begun. If the contractor, after examination of the source of materials defined in the descriptive specifications sheets is of the opinion that materials complying with the standard or other specifications of the contract cannot be obtained in quality or sufficient quantity from the source defined in the descriptive specification sheet; he shall so state clearly in his tender and state wherefrom he intends to obtain materials subject to the approval of the said authority of the institution. The institution will not, however, after acceptance of a contract rate pay any extra charge for lead or for any other reasons, in case the contractor is found later on to have misjudged the materials available. Attention of the contractor is directed to the "Standard Preliminary Specification" regarding payment of seigniorage, tolls, etc.,

9. The tenderer's particular attention is drawn to the sections and clauses in the "Standard Preliminary Specification" dealing with—

- (1) Test, inspection and rejection of defective materials and work.
- (2) Carriage,
- (3) Construction plant,
- (4) Water and lighting,
- (5) Cleaning up during progress and for delivery,
- (6) Accidents,
- (7) Delays, and
- (8) Particulars of payment.

The contractor should closely pursue all the specification clauses which govern the rates which he is tendering.

10. A schedule of quantities accompanies this tender notice. It shall be definitely understood that the institution does not accept any responsibility for the correctness or deductions, or addition at the discretion of the said authority of the institution, or as set forth in the conditions of contract. The tenderer will, however, base his lump-sum tender on this schedule of quantities. He should quote specific rates for each item in the schedule and the rates should be in rupees and paise. The rates should be written both in words and figures and the units in words. The tenderer should also show the totals of each item and grand total of the whole contract, and quote in the tender a lump-sum for which he will undertake to do the whole work subject to the conditions of contract, such lump-sum agreeing with the total amount of Schedule A. This

Schedule accompanying the lump-sum tender shall be written legibly and free from erasures, overwriting, or conversions of figures. Corrections, where unavoidable, should be made by crossing out, initialing, dating and rewriting.

11. Tenders offering a percentage deduction from or increase on the estimate amount and those not submitted in proper form or in due time will be rejected. Rates or lump-sum amounts for items not called for shall not be included in the tender. No alteration which is made by the tenderer in the contract form the conditions of contract, the drawings, specifications, or quantities accompanying the same will be recognized and, if any such alterations are made, the tender will be *void*.

12. The tenderer should work out his own rates.

13. The price at which and the source from which certain particular materials shall be obtained by the contractor are given at the end of the Schedule accompanying the tender form. Tenderer must accept the materials at these prices, and shall quote their price for finished work accordingly. Notwithstanding any subsequent change in the market value for these material; the charge to the contractor will remain as originally entered in the written contract. No cartage by the institution in connection with this shall apply.

14. The attention of the tenderers is directed to the contract requirements as to the time to beginning of work, the rate of progress and the dates for the completion of whole work and its several parts. The following rates of progress and of proportionate value of work done from time to time as will be indicated by the certificate of the said authority of the institution, of the value of work done, will be required. Date of commencement of this programme will be required. Date of commencement of this programme will be the date on which the site (or premises) is handed over to the contractor:

Period after date of commencement

Percentage of work completed (based on contract lump-sum amount)

(1)

(2)

Note. —The periods to be entered in column (1) for the purpose of defining the rate of progress may be fixed by the said authority of the institution.

15. No part of the contract shall be sub-let without the written permission of the said authority of the institution nor shall transfer be made by power-of-attorney authorizing others to receive payment on the contractor's behalf.

16. If further necessary information is required, the executive authority of the institution will furnish it, but it must be clearly understood that tenders must be received in order, and according instructions.

17. The said authority of the institution or other sanctioning authority reserves the right, to reject any tender or all the tenders without assigning any reason therefore.

18. Preference in the selection from among the tenderers will be given, other things being equal, to those who are themselves professionally qualified or who undertake to employ qualified men at their cost to look after the work. The tenderers should therefore state in clear terms whether they are professionally qualified or whether they undertake to employ technical staff, and if so, to give their professional qualifications or of the staff to be employed. In case the selected tenderer is one who has undertaken to employ technical staff under him, he should see that one of

the staff is always at site of the work during working hours personally checking all items of work and paying extra attention to such works as may demand special attention (e.g.) reinforced concrete, etc.

Note. —This paragraph should be scored out if the cost of the work involved is less than Rs. 10,000.

19. The tenderers when submitting their tenders should certify in their tenders that they have actually inspected the site of works and have examined before tendering the nature and extent of various kinds of soil at various depths and have based their tenders on such examination.

20. Tenderers who have not already registered themselves as Hindu Religious and Charitable Endowments contractors shall furnish evidence of their good record and capacity to do the work.

21. A tenderer submitting a quotation which the tender accepting authority considers excessive and/or indicative of insufficient knowledge of current prices or definite attempt at profiteering will render himself liable to be debarred permanently by from tendering or for such period as the tender accepting authority may decide. The tender rates should be based on the controlled prices for materials if any, fixed by Government, or a reasonable price.

22. A statement giving brief particulars of equipment and resources that will be put at the disposal of the work under the following classifications should accompany the tender:

- (a) Equipment (transport for materials, viz., lorries and carts—concrete mixers).
- (b) Organisation (i) technical, (ii) unskilled
- (c) Resources in materials like teakwood, steel and extent to which departmental help required for procurement of materials and transport of the same.
- (d) Methods that will be adopted to speed up the work to ensure completion within the time fixed for completion.

23. The tender of the contractor who agrees to employ the maximum number of ex-servicemen (number to be specified in the tender) will receive preferential consideration. The tenderers are requested to report on this in their covering letter.

24. Those who are not registered Hindu Religious and Charitable Endowments contractors should invariably attach income-tax verification certificates with their tenders, and Hindu Religious and Charitable Endowments contractors who had not already produced these certificates in the current year should also do so.

25. The said authority of the institution reserves to himself the right of allotting the different sub-works to different contractors or to one and the same contractor as he may decide after the receipt of tenders.

TENDER NOTICE

(Piece Work)

1. Tenders will be received by the Trustee/the chairman of the Board of Trustees of (name of Institution) at his office of the institution at upto P.M. on for the work of .The tender should be in the "Hindu Religious and Charitable Endowments form", obtainable from the office of the institution. Tenderers or their authorised agents are expected to be present at the time of opening tenders. The Trustee/Chairman of the Board of Trustees (hereinafter called the said authority) will, on opening each tender, prepare a statement of attested and unattested corrections therein and hand it over to the tenderers concerned and initial all such corrections in the presence of the tenderer. If any of the tenderers or their agents finds it inconvenient to be present at the

time, then the said authority will, on opening the tender of the absentee tenderer make out a statement of the unattested corrections and communicate it to him. The absentee tenderer shall then accept the statement of corrections without any question whatsoever. The Madras Detailed Standard Specifications and other documents relating to the contract such as additional specifications, drawings, descriptive specification sheet regarding materials, etc., can be seen at any time during office hours in the office of the institution.

2. Tenders must be submitted in sealed covers and should be addressed to the Trustee/Board of Trustees of the institutions, the name of the tenderer and the name of the work being noted on the cover.

If the tender is made by an individual, it shall be signed with his full name and his address shall be given. If it is made by a firm of partnership, it shall be signed with the firm name by a partner of the firm who shall also sign his own name; The tender shall also mention the name and address of each member of the firm. If the tender is made by a corporation, it shall be signed by a duly authorised officer who shall produce with his tender, satisfactory evidence of his authorization. Such tendering corporation may be required before the agreement is executed to furnish evidence of its corporate existence.

3. The tenderer should deposit a sum of Rs. with the institution under a separate head to be specified as earnest money and enclose with his tender the chalan endorsed accordingly. This earnest money will be refunded to the unsuccessful tenderer on application, after intimation is sent of rejection of the tender, or at the expiration of two months from the date of tender whichever is earlier. This refund will be authorised by the said authority of the institution by suitable endorsement on the chalan. The earnest money will not be received in cash, or currency notes by the said authority of the institution, save in exceptional cases, where there are no receiving treasuries to the institution. When currency notes are given, the tenderer should sign his name in full with date, on the back of the currency notes given by him, whatever their denomination.

The earnest money will be retained in the case of the successful tenderer and will not carry any interest. It will be dealt with as provided for in the conditions attached to the tender.

When a tender is to be accepted, the tenderer whose tender is under consideration, shall attend the office of the institution on the date fixed in the written intimation sent to him. He should forthwith upon intimation being given to him by the said authority of acceptance of his tender, complete the execution of the agreement by signing all documents connected therewith. Failure to do so shall entail forfeiture of earnest money.

4. Tenderers should peruse carefully the instructions in "The instructions to tenderers and form of tender and the conditions of the standard Hindu Religious and Charitable Endowments Form and all other relevant documents before tendering rates for piece-work. The approximate quantity of work to be executed under each clause is to enable the tenderer to quote his overall rate for each class of work in the tender form.

5. The said authority of the institutions reserves the right to reject any tender or all the tenders without assigning any reason therefor. Tenders offering a percentage deduction from or increase on the estimate amount, and those not submitted in proper form or in due time will be rejected.

6. The tender of the contractor who agrees to employ the maximum number of ex-servicemen ex-toddy tappers, unemployed agricultural labourers, (number to be notified in the

tender) will receive preferential consideration. The tenderers are requested to report on this in their covering letter.

7. The tenderers when, submitting their tenders should certify in their tenders that they have actually inspected the site of work and have examined before tendering the nature and extent of various kinds of soil at various depths and have based their tenders on such examination by them.

8. Tenderers who have not already registered themselves as Hindu Religious and Charitable Endowments contractors shall furnish evidence of their good record and capacity to do the work.

9. A tenderer submitting a quotation which the said authority considers excessive and/or indicative of insufficient knowledge of current prices or definite attempt of profiteering will render himself liable to be debarred permanently from tendering or for such period as the said authority may decide. The tender rates should be based on the controlled prices for materials if any fixed by the Government, or a reasonable price.—

10. (a) Each tenderer must also send a certificate of income-tax verification from the appropriate income-tax authority in the form prescribed therefor.

(b) In the case of proprietary or partnership firm it will be necessary to produce the Certificate aforementioned for the proprietor or proprietors and for each of the partners as the case may be.

(c) If a certificate had already been produced by the tenderer during the calendar year in which the tender is made in respect of a previous tender, it will be sufficient if particulars regarding the previous occasion on which the certificate was produced are given.

(d) All tenders received without certificates as aforementioned will be summarily rejected.

SCHEDULE A

(Give details of the piece-work to be done)

TENDER.

To,

Date: 19

The Trustee / the Board of Trustees (name of the institution and address).

Sir,

I/We do hereby tender and, if their tender be accepted, undertake to execute the following works (viz.) and more fully described in the Schedule hereto as shown in the drawings and described in the specifications deposited in the office of the institution with such variations by way of alterations of, additions to, and omissions from the said works and method of payment as are provided for in the conditions of contract for the sum of rupees (to be entered in words and figures) or such other sum as may be arrived at under the clause of the Standard Preliminary Specifications relating to "Payment on lump-sum basis or by final measurement at unit prices."

I/We have also completed the priced list of items in Schedule 'A' annexed (in words and figures) for which I/We agree to execute the work when the lump-sum payment under the terms of the agreement is varies by payment on measured quantities.

I/We hereby distinctly and expressly declare and acknowledge that, before the submission of my/our tender I/We have carefully followed the instructions in the tender notice and have read with Madras Detailed Standard Specifications and the Preliminary Specifications therein; and that I/We have made such examination of the contract documents and of the plans, specifications, and quantities, and of the location where the said work is to be done and such investigation of the work required to be done, and in regard to the materials required to be furnished as to enable me/us to thoroughly understand the intention of same and the requirements, covenants, agreements, stipulations, and restrictions contained in the contract, and in the said plans and specifications and distinctly agree that I/We will not hereafter make any claim or demand upon the institution, based upon or arising out of any alleged misunderstanding or misconception or mistake on my/our part of the said requirements, covenants, agreements, stipulations, restrictions, and conditions.

I/We have enclosed herewith a challan for the payment of the sum of rupees (to be entered in words and figures) as earnest money not to bear interest. If my/our tender is not accepted, the sum shall be returned to me as on my/our application when intimation is sent to me/us of rejection or at the expiration of two months from the date of this tender, whichever is earlier. If my/our tender is accepted, the earnest money shall be retained by the institution as security for the due fulfilment of the contract upon written intimation to me/us by the office of the Trustee/Board of Trustees of the institution, fail to attend the said office before the end of the period specified in such intimation, the tender will not be considered by the Trustee/Board of Trustees, or if upon intimation being given to me/us by Trustee/Board of Trustees of the institution, of acceptance by the Trustee/Board of Trustees of my/our tender I/We fail to make an additional security deposit or tender into the required 'agreement defined in paragraph 4 of the tender notice then I/We agree to the forfeiture of the earnest money any notice require to be served on me/us by hereunder shall be sufficiently served on me/us personally or forwarded to me/us by post (registered for ordinary) or left at my/our address herein. Such notice shall if sent by post be deemed to have been served on me/us at the time when it would be delivered at the address to which it is sent.

I/We fully understand that the written agreement to be entered into between me/us and the institution shall be the foundation of the rights of both the parties and the contract shall not be deemed to be complete until the agreement is first signed by me/us and then by the Trustee/Chairman of the Board of Trustee of the institution on its behalf.

I am/We are professionally qualified and my/our qualifications are given below:

Name

Qualification

I/We will employ the following technical staff for supervising the work and will see that one of them is always at site during working hours personally checking all items of work and paying extra attention to such works as require special attention (*e.g.*) reinforced concrete work.

Names of members of technical

staff proposed to be employed

Qualification

Note. - (a) The last two clauses should be scored out if the cost of the work involved is less than Rs.10,000.(b) The tenderers should score out the last clause or the penultimate according as they

are themselves professionally qualified or undertake to employ technical staff under them.

Contractor.

Rate of Progress.

(Fill in from tender notice)

Extract from Schedule of quantities.

(Fill in only the table from tender notice).

¹**[62. Maintenance of Temple Car.** - The temple cars meant for use in festival shall be kept in good repairs, sufficient care being taken to maintain the strength of timber or the car beam and to reinforce it, whenever necessary.

63. Duties of the trustees of temple in the matter of celebrating Car or Theppam Festivals.- The trustee of every temple, which celebrates Car or Theppam festival shall apply atleast ²[six weeks for the purpose of clause (a) and one month for the purposes of clause (b), (c), and (d) in advance of the commencement of festival:

(a) to the Sub-Divisional Officer of the Public Works Department having Jurisdiction over the area to exercise the Car or the raft regarding its structural stability and safety and to issue a certificate of fitness. The Theppam should be inspected a second time on the previous day of the festival by the PWD authorities jointly with the Police, who would also by actual trial, test the number of persons the Theppam could carry.

(b) to the executive authority of the Municipal Council or Panchayat Board or the Panchayat Union to provide an even surface for the roads or streets through which the car is to be dragged;

(c) to the local offices of the Electricity Department to take necessary precautions to avoid the top portion of the car coming into contact with live wires, to cut off the supply at the time of dragging the car, if necessary, and to see that no overhead power lines or underwater cables obstruct the free passage of the Theppam.

(d) to the Inspector of Police of the circle concerned to take necessary precautionary measures and provide adequate bandobust.]

³**[63-A.** The certificate of fitness referred to in Clause (a) of Rule 63 shall be issued by the Sub-Divisional Officer of the Public Works Departments, at least two weeks prior to the date of commencement of the Festival, so that the trustee or the temple authorities may have time to rectify the defects if any, pointed out, before another final inspection to be made on a day previous to the festival.]

64. Application. - The application under Rule 63 shall contain:

(a) the date or the dates on which the car or theppam is to be dragged;

(b) the route through which the car is to be dragged; and

(c) the name and location of the tank where the Theppam Festival is to be celebrated.

65. Arrangements for the movement of temple cars. - (1) The trustee shall make arrangements for the very slow movement of the car, when it is being dragged and to keep down the speed at curves or at undulating and slipping grounds a cordon of at least 3 to 4 feet should be thrown around the car.

(2) the car shall be made to move as far as possible in the centre of the street;

(3) experienced persons shall be engaged for application of brake wedgers.

1. Rule 62 to 66 added by G.O. Ms. No. 2329 Reverse, dated 9th August, 1965.

2. Rule 63 for the words " One month substituted by G.O. Ms. No. 1254, Reversed, dated 9th June, 1969.

3. Section 63-A, inserted by G.O. Ms. No. 1254, Reversed, dated 9th June, 1969.

[66. Conduct of Theppam Festival. - In the case of Theppams, the temple authorities shall make necessary arrangements for towing the raft slowly, carefully, with a man ushering it at turnings and approaches to the bank, for entrusting towing operations to experienced persons and for ensuring that the raft is not loaded beyond limit, reading to say stamped, disallowing entry of unauthorized persons into the raft and for putting up requisite number of cork logs. It should also be ensured that in the proposed path or raft projection (like putting rocks) submerged articles which cannot be removed are prominently marked by lighted boys so that the Theppams could be towed clear off obstructions.]

THE GRANT OF TRAVELLING ALLOWANCES TO TRUSTEES OF RELIGIOUS INSTITUTIONS RULES, 1961.*

[Published in the Fort St. George Gazette, part V, page 1078, dated 25th October, 1961]

[G.O. Ms. No. 4055, dated 23rd September, 1961]

S.R.O.No. A-1040 of 1961. - In exercise of the powers conferred by Clause (xx) of the Sub-sec.(2) of Sec.116 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act XXII of 1959), the Governor of Madras hereby makes the following rules:-

¹[1. **Short title.** - These rules may be called "THE GRANT OF TRAVELLING ALLOWANCE TO TRUSTEES OF RELIGIOUS COMMITTEE RULES."]

2. Conditions shall be those laid down in the Madras Travelling Allowance Rules. - The conditions for the payment of travelling allowance, daily allowance or mileage ²[xxx] to the trustees of religious institutions shall, unless otherwise provided for in these rules, be the same as those laid down in Madras Travelling Allowance rules.

³[xxx]

3. Rate of travelling allowance, etc., to trustees.- A trustee shall be entitled to draw, from out of the funds of the institution of which he is a trustee, travelling allowance at the rates mentioned in the Table below for Journeys made by him in connection with the business of the religious institution.

⁴[THE TABLE

Income of the Institutions (in Rupees)	Journey by Train	Journey by road	Daily Allowance (in Rupees)
(1)	(2)	(3)	(4)
upto 10,000	Actual Train fare II class plus Dearness Allowances	Actual Bus fare Plus Dearness Allowances	15.00
1,00,000 upto 2,00,000	Actual Train fare II class plus Dearness Allowances	Actual Bus fare plus Dearness Allowances	20.00

* As Amended by G.O.Ms.No.275, C.T. & R.E., Dept., dated 16th July, 1997.

1. Substituted for the old Rule 1 by G.O. Ms. No. 1379, Revenue dated 6th May, 1970.

2. Rule 2, the words "to the members of the Area Committee of" omitted by *Ibid*.

3. Rule 2, the heading Part I. - Travelling allowance rules relating "to members of the Area Committees" omitted by *Ibid*.

4. Rule 3, in table substituted by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

2,00,000 and above	Actual Train fare II class plus Dearness Allowance	Actual Bus fare plus Dearness Allowance	30.00
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Provided that a trustee shall be entitled to draw daily allowance of rupees three and a half only if the place of journey is within a radius of five miles from his residence.

Provided further that he shall be eligible for any Travelling Allowance in respect of his visits to the institution or the place in which the institutions is situated in connection with the exercise of his powers and duties as trustee, including the attending of meetings of the trustees or the Board of Trustees.

4. Only one of the trustees shall be eligible to draw Travelling Allowance for a particular journey.- Notwithstanding the provisions contained in Rule 5, in the case of religious institutions with more than one trustee, Travelling Allowance for work connected with the inspection of properties of religious institutions or attending Courts on behalf of religious institutions or such other matter as the Commissioner may decide shall be admissible to one of the trustees only for a particular journey at the rates mentioned in Rule 4 and above, and such trustee shall be the person authorized by the trustees or the Board of Trustees to undertake the journey.

5. Executive Officer appointed as trustee to be paid Travelling Allowance out of the funds of the institution. - If an Executive Officer of a religious institution is appointed as a trustee or a fit person of some other institution, such trustee or fit person shall be entitled to draw, from out of the funds of the Institution of which he is a trustee or fit-person, Travelling Allowance under the Madras Travelling Allowance Rules.

¹**[6. Controlling and counter-signing authority.** - ²[The Assistant Commissioner, the Deputy Commissioner, the Joint Commissioner or the Commissioner, as the cause may be], shall be the controlling and countersigning authority in respect of the Travelling Allowance bills of trustees. Payment of Travelling Allowance shall be made only after sanction by the controlling and countersigning authority and shall be subject to audit of the accounts of the religious institutions concerned.]

7. Claims should be made within six months. - No claim for Travelling Allowance shall be admitted if it is made after six months from the date of which the claim has fallen due, provided the ³[Commissioner] may authorize the payment of any arrears claim made within one year from the date of completion of the journey, if he is satisfied that there was reasonable cause for the delay in preparing the claim and the claim is reasonable.]⁴

1. Rule 6 substituted by G.O. Ms. No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

2. The expressions in Rule 6 "the Assistant Commissioner, the Deputy Commissioner, the Joint Commissioner, or the Commissioner, as the case may be" substituted for the expression "the Secretary to the District Committee and the Secretary to the Tamil Nadu Temple Administration Board" by G.O. Ms. No.275, Commercial Taxes and Religious Endowments, dated 16th July, 1997.

3. The words "the Secretary, the Temple Administration Board" substituted for the words "the Commissioner" by G.O. Ms.No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

4. In Rule 7, the words "the Commissioner" substituted for the words "the Secretary to Tamil Nadu Temple Administration Board" by *Ibid*.

TAMIL NADU HINDU RELIGIOUS INSTITUTIONS (OFFICERS AND SERVANTS) SERVICE RULES, 1964.*

*[Published in the Fort St. George Gazette, part V pgs. 1324 to 1328, dt. 23rd December, 1964]
[GO. Ms. No.2759, Revenue dated 26th November, 1964]*

S.R.O.No. A-1252 of 1964 dated 26th November, 1964. - In exercise of the power conferred by Clause (xxiii) of Sub-sec.(2) of Sec.116, of the Madras Hindu Religious and Charitable Endowments Act, 1959, (Madras Act 22 of 1959), the Governor of Madras hereby makes the following rules.

RULES

1. Short Title and Application. - (1) These rules may be called "THE TAMIL NADU HINDU RELIGIOUS INSTITUTIONS (OFFICERS AND SERVANTS) SERVICE RULES, 1964."

(2) They shall apply to all officers and servants of the religious institutions except Executive Officers.

2. Definitions. - In these rules, unless the context otherwise requires.-

(a) "Act" means the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.(Tamil Nadu Act 22 of 1959).

(b) "Appointing Authority" means the authority who is vested with the power to appoint an officer or servant.

(c) "Officer" or "servant" includes a person who holds an office to which an inam granted, confirmed or recognized by the Government, is attached or who is remunerated in kind or in cash;

(d) "Out-door servant" means a servant other than a ulthurai servant;

(e) "Vithavai Servant" means a servant whose duties relate mainly to the performance or rendering assistance in the performance of pujas, rituals and other services to the deity, the recitation of Mantras, Vedas, Prabandas, Thevarams and similar invocations, and the performance of duties connected with such performance or recitation.

3. Officers and servants to profess Hindu Religion. - Every Officer or servant of a religious institution shall profess the Hindu Religion and shall cease to hold office as such officer or servant when he ceases to profess that religion.

4. Physical Fitness. - (1) Every person appointed to a non-hereditary post in a religious institution carrying a monthly salary of not less than ninety rupees shall, before entering service, produce a certificate of fitness from a Civil Assistant Surgeon to the satisfaction of the appointing authority.

(2) No person, who is suffering from any contagious or infectious disease, either congenital or supervising, and no person who is suffering from any mental or physical infirmity which renders him unfit for service, shall be appointed to, or succeed to, or hold any office in a religious institution. Any doubt or dispute as to whether a person is qualified under this rule shall be decided by the appointing authority on production of a certificate of physical fitness obtained from the nearest Civil Assistant Surgeon. Any person aggrieved by an order of the appointing authority may prefer an appeal to the Joint or Deputy Commissioner within one month from the date of receipt of such order.

* As amended by G.O.Ms.No.506, C.T. & R.E. Department, dated 13th December, 1991.

5. Age. - No person shall be appointed to a non-hereditary office unless he has completed twenty-five years of age but has not completed forty-five years of age on the first day of July of the year in which the selection for appointment is made and every person appointed to such office shall retire from such office on completing sixty years of age.

6. Disqualification.- (1) No person convicted and sentenced to imprisonment by criminal court for an offence involving moral turpitude or bound over for keeping the peace or for good behaviour shall be appointed to or hold any office.

(2) No person who has been declared or adjudicated as an insolvent, who has applied to be adjudicated or declared shall be appointed to or hold any office.

(3) No person, who has been removed or dismissed from service in any religious institution, local authority, statutory body or Government, shall be employed or allowed to hold office in any religious institution.

7. Probation. - Every person appointed to a non-hereditary office shall from the date on which he joins duty, be on probation for a total period of one year on duty within a continuous period of two years.

8. Suspension or termination of probation. - Any time, before the expiry of the prescribed period of probation, or where the period of probation has been extended under Rule 10 before the expiry of the extended period of probation, the appointing authority may:-

(i) suspend the probation of the probationer and discharge him from the service for want of a vacancy; or

(ii) at his discretion, by order, either extend the period of probation of the probationer, in case the probation has not been extended under Rule 10 or terminate the probation and discharge him from service after giving him a reasonable opportunity of showing cause against the proposed termination of probation.

9. Probationer's suitability for full membership.- (a) At the prescribed or extended period of probation, as the case may be, the appointing authority shall consider the probationer's suitability for full membership of the service.

(b) If the appointing authority decide that a probationer is suitable for such membership, it shall issue an order declaring the probationer to have satisfactorily completed his probation. If no such order is issued within six months from the date on which he is eligible for such declaration, the probationer shall be deemed to have satisfactorily completed his probation on the date of expiry of the prescribed or extended period of probation.

(c) If the appointing authority decides that a probationer is suitable for such membership, it shall unless the period of probation is extended under Rule 10, by order, discharge him from service.

Explanation I: The decision of the appointing authority that the probationer is not suitable for full membership may be based also on his work and conduct till the date of decision inclusive of the period subsequent to the prescribed or extended period of probation.

Explanation II : An opportunity to show cause may be given after the appointing authority arrives at provisional conclusion on suitability or otherwise of the probationer for full membership of the service, either by such authority himself or by a subordinate authority who is superior in rank to the probationer.

10. Extension of Probation. - (1) In the case of any probationer falling under Sub-rule(c) of Rule 9, the appointing authority may extend his probation. Such extended period of probation shall terminate at the latest when the probationer has, after the date of expiry of the

period of probation for the category, completed six months of duty in such category. A probationer shall be entitled to draw the first increment after putting in service necessary to earn the increment. His next increment shall however, be drawn only with effect from the date of satisfactory completion of probation, but the period of service from the date of increment shall count for subsequent increments.

(2) Seniority. - The seniority of a person shall, unless he has been reduced to a lower value as a punishment, be determined by the date of his appointment to the service, class, category or grade provided in the schedule of establishment of a religious institution. If any position of the service of such person does not count towards probation, his seniority shall be determined by the date of commencement of his service which counts towards probation. The appointing authority may, at the time of passing any order appointing two or more persons simultaneously, fix the order of preference among them and seniority shall be determined in accordance with it.

Explanation. - The service, class, category or grade in each institution shall be decided by the appointing authority and included in the schedule of establishment submitted to the appropriate authority under Rule 14, of these rules.

11. Increment. - A probationer shall be allowed to draw his first increment in the time scale of any, in the normal course, but his second increment shall be drawn only from the date on which he is declared to have completed his probation.

12. Certificate of fitness for performing certain service.- Every "ulthurai Servant", whether hereditary or non-hereditary, whose duty is to perform pujas and recite Mantras, Vedas, Prabandams, Thevarams, and other invocations shall, before succeeding, or appointment to an office, obtain a certificate of fitness for performing in his office, from the head of an institution imparting instructions in agamas and ritualistic matters and recognized by the commissioner, by general or special order or from the head of a Math recognized by the commissioner by general or special order or such other person as may be designated by the commissioner from time-to-time, for the purpose.

¹[13. Qualification for outdoor servant.- The minimum general educational qualification prescribed for entry into the Tamil Nadu Ministerial service shall be the qualification for appointments to the posts of outdoor servants to whom the duties of maintenance and custody of accounts, registers, collection of income and custody of cash and other valuables are entrusted. The qualification prescribed for the entry into Government service for the posts of Record Clerks and Office Assistants shall apply to the other categories of like nature of posts in the temple services.]

14. Pay and Emoluments of Officers and servants. - (1) The pay and emoluments in cash and in kind, of each officer or servant shall be in accordance with a schedule or establishment framed by the trustee or trustees and approved ²[by the Assistant Commissioner in the case of institution under his jurisdiction] and by the Joint or Deputy Commissioner in the case

1. Rule 13 substituted by G.O. Ms. No.506, Commercial Taxes and Religious Endowments, dated 13th December, 1991.

2. Substituted for the words "by the Area Committee in the case of institution under the Jurisdiction of the Committee" by S.R.O. No. A 667 of 1970.

of other institution. The Trustee or trustees shall not alter the schedule without the previous ¹[permission of the Assistant Commissioner] or the Joint or Deputy Commissioner as the case may be;

Provided that this rule shall not apply to Maths and specific endowments attached to Maths.

(2) Travelling Allowance and Daily Allowance payable for the journeys performed by the officers and servants shall be in accordance, with the Tamil Nadu Travelling Allowance Rules for the time being in force. The Executive Officer and in the absence of any such officer, the trustee or the chairman of the Board of Trustees, as the case may be, shall be the controlling and countersigning authority in respect of their Travelling Allowance bills.

(3) Advance of pay shall not be paid to any officer and servant except with the previous permission of the ²[Assistant Commissioner] or the Joint, or Deputy Commissioner, as the case may be.

15. Leave. - (1) Hereditary servant shall not be entitled to any leave other than casual leave, as is admissible to Government servants from time-to-time.

(2) Non-hereditary servants shall be eligible for casual leave as is admissible to Government servants from time-to-time, ³[in addition they shall earn leave at the rate of 1/22 of the duty period as earned leave with pay and accumulate such earned leave upto a maximum of 50 days upto the 2nd September, 1973, and upto a maximum of 75 days thereafter, leave not availed of and in excess of 50 days on the 2nd September 1973 or 75 days thereafter shall lapse.]

(3) Leave on medical certificate, with full pay, may be granted to non-hereditary servants for a period of ninety days in their total service.

(4) Leave on medical certificate may be combined with earned leave, but the total period so combined shall be limited at a time to sixty days up to the 2nd September, 1973, and 85 days thereafter.

(5) When a non-hereditary officer or servant has neither earned leave nor leave on medical certificate to his credit, extra leave without pay and allowance may be granted to him. Extraordinary leave, may, however be granted to a person who, being ineligible for any other kind of leave, specifically applies for it.

(6) Leave may be granted, under this rule, to the hereditary and non-hereditary ulthurai servants on their providing proper substitutes to the satisfaction of the appointing authority.

16. Special order of the ⁴[Assistant Commissioner] or of the Commissioner laying down qualifications to certain posts. - The ⁵[Assistant Commissioner in respect of the institution under his Jurisdiction] and with the previous approval of the Commissioner and the commissioners in respect of other institutions may, by special order, lay down what office of non-hereditary out-door servants shall be filled by educationally qualified persons and what the qualifications shall be and when such special order is made, no person who does not possess the qualifications so specified shall be appointed to a post included in the order.

1. Substituted for the words "Permission of the Area Committee" by S.R.O. No A 667 of 1970.

2: Sub-rule (3) substituted for the word "Areas Committee" by S.R.O. No. A 667 of 1970.

3. Substituted by G.O. Ms. No.219, CT & RE Department dated 27th February, 1975.

4. Substituted for the words "Area Committee" by S.R.O. No. A 667 of 1970.

5. Substituted for the words "The Area Committee in respect of the institution under its Jurisdiction" by S.R.O.No. A 667 of 1970.

17. Power to exempt from the operation of these rules. - On the recommendation of the trustee or the trustees of religious institutions, the commissioner may exempt any person from the operation of these rules.

18. Maintenance of Service Registers. - Service Registers shall be maintained for all officers and servants including ulthurai servants and they shall be verified by the appointing authority every year in January and a certificate that, "Service Certified", shall be recorded in the register.

19. Maintenance of Personal Files. - Personal files in respect of all outdoor servants and defaulter sheets in respect of all ulthurai servants shall be maintained by the Executive Officer. In the institutions where there are Executive officers, such personal files and defaulter sheets shall be written every year by the Executive officer and scrutinized by trustee or the chairman, Board of trustees as the case may be.

20. Cashier, etc., to executive security bond. - Every cashier, shroff, store-keeper and every other officer or servant of a religious institution, who is entrusted, whether permanently or temporarily, with the custody of cash or stores or valuables belonging to the institutions shall furnish security in the form of cash and shall execute a security bond in the name of the institution setting forth the conditions under which the institution holds the security and may ultimately refund or appropriate it. The security bond shall be retained permanently or until it is certain that there is no necessity for keeping it.

21. Fixing the amount of Security. - The amount of security to be furnished by any officer or servant shall be fixed by the appointing authority subject to the approval of the ¹[Assistant Commissioner in the case of institutions within his jurisdiction] and the Joint/Deputy Commissioner, in other cases, having regard to the circumstance of the institution concerned, the nature of the post and the salary attached thereto and local conditions.

22. Conditions as to the furnishing of Security. - (1) No officer or servant referred to in Rule 16 holding office on the date of commencement of these rules, shall continue to hold office, if he does not furnish security before the expiry of three months from the date of such commencement.

(2) No person first appointed to any post for which security has to be furnished shall assume office, unless he furnished the security fixed for the post within fifteen days of the receipt of the order of appointment or within such period as may be specified in such order.

(3) When a person holding a post for which he has furnished security is appointed to another post, for which the security fixed is higher than the amount of security already furnished by him or is appointed to an additional post, for which security has to be furnished, he shall not continue in the new post, if he does not within three months from the date of assumption thereof, furnish the required additional security.

23. Exemptions. - Notwithstanding anything contained in Rule 22, the ²[Assistant Commissioner] or the Joint/Deputy Commissioner, as the case may be, on the recommendation of the trustee or Board of trustees:

(a) Extend the time for furnishing the security or the additional security by any officer or servant; or

1. Substituted for the words "Area Committee in respect of the institutions under its Jurisdiction" by S.R.O. No. A 667 of 1970.

2. Substituted for the words "Area committee" by S.R.O. No. 667 of 1970.

(b) Exempt, subject to such conditions as he may fix, an officer or servant from furnishing the whole or any part of the security for reducing the amount of security.

24. Investment of Security Furnished. - (1) The cash security furnished by an officer or servant shall be invested as early as possible in any one of the approved form of securities, with the consent of the officer or servant, and the interest extended by such security shall be paid to him.

(2). No interest shall be payable on the security amount till it is invested in the manner indicated in Sub-rule (1).

25. Refund of Security. - The security furnished shall not be refunded before six months after the officer or servant vacates office, provided that before refunding the security the executive authority shall satisfy himself that no amount is due by the officer or servant to the institution.

26. Gratuity. - Even non-hereditary officer or servant who retires, after completing ten years of service in a religious institution included in the list published under Sec.48 of the Act, shall become eligible for a gratuity at the rate of half a month's salary for every completed year of service subject to a maximum of 15 month's Salary.

Provided that this rule shall not apply to any such institution where the Contributory Provident Fund scheme is in force.

Explanation. - (1) Fraction of a year equal to six months and above shall be treated as completed years.

(2) "Retirement" for this purpose shall mean retirement on super-annuation or after completing twenty-five full years of service and shall not include cessation of service on resignation or as a result or disciplinary action.

(3) Salary for the purpose of this rule shall mean the average monthly salary excluding the Dearness and other Allowances drawn during the last twelve months of service.

27. Reduction of Gratuity. - If the service of an officer or servant has not been thoroughly satisfactory, the authority sanctioning the gratuity may make such reduction in the amount as it thinks proper, but the unfavourable circumstances appearing against such officer or servant for reducing the gratuity shall be recorded and communicated to him.

28. Recovery from gratuity and payment of gratuity to the family of employee. - Any sum of money payable by the officer or servant to the religious institution shall be deducted from the amount of gratuity payable to him. If an officer or servant who has become eligible for gratuity dies while in service or after retirement, the amount of gratuity shall be paid to his family.

Explanation. - (1) "Family" includes the officer's or servant's widow, or widows, legitimate children, step-children, parents, unmarried sisters and minor brothers who had been wholly dependant on him.

(2) When the amount of gratuity is claimed by more than one person, payment shall be made to any one person who is authorized by all the claimants to receive payment.

29. Appointing Authority to Sanction Gratuity. - Appointing authority in respect of every officer or servant shall, with the prior sanction of the ¹[Assistant Commissioner], or the Joint or Deputy Commissioner as the case may be, sanction the gratuity amount.

1. Substituted for the words "Area committee" by S.R.O. No. 667 of 1970.

30. The Commissioner may sanction gratuity to servant of any institution. – Notwithstanding anything contained in Rules 28 and 29 of these rules, the commissioner may with the previous approval of the Government, sanction compassionate gratuity to a non-hereditary officer or servant in respect of, for special reasons, to be recorded in writing:

Provided that the commissioner shall, before passing an order under the rule, take into account the service, character and conduct of the officer or servant, and also the financial position of the institution and its capacity to pay the amount.

31. Counting of service in a different institution. – Service in one institution shall not count in another institution for the purpose of these rules.

32. Contributory Provident Fund Scheme. – (1) Every religious institution, the annual income of which, as calculated under Sec.91 of the Act, is ten thousand or more rupees, shall, within six months from the date of commencement of these rules within such further time as may be granted by the Commissioner, introduce for the benefit of its non-hereditary officers and servants, a Contributory Provident Fund scheme.

(2) The rules governing the administration of the Contributory Provident Fund shall be got approved by the Commissioner before the scheme is put into force.

(3) The Commissioner may, by general or special order, revise the rule as may be required from time to time.

¹[32.A. The provisions of Articles 520 and 521 of civil service regulations shall apply to the re-employment of retired Government servants as officers and servants of religious institutions.]

²[32-B. Family Benefit Fund Scheme.- (1) This scheme is applicable to regular servants of religious institutions, The scheme is not applicable to the servants of Maths and specific endowments attached to Maths and also to the part-time servants of temples or specific endowments attached thereto. However, if any part-time servant is in regular service in any temple or specific endowments attached thereto, then the scheme will be applicable to him.

(2) The Commissioner shall sanction the lump sum amount to the nominee/ legal heirs of the employee who die in harness. The amount shall be sanctioned even in the case of suicide, murder and unnatural deaths, like accident, poisoning, drowning, and burning.

(3) An amount of rupees five per month shall be collected from the employees whose Basic pay is Rupees One Hundred and above, and an amount of Rupees One per month shall be collected from the employees whose Basic pay is less than Rupees one hundred. The amount shall be collected during the period of suspension and for the period of leave without pay as well.

(4) Every institution shall calculate the total annual subscriptions of all the employees, draw the amount from the General Funds of the Institution and remit the amount in advance to the Commissioner before the end of July of every year and such annual subscription so paid by the Institution on behalf of its servants shall be recovered from the salary of the employees in every month as mentioned above.

(5) The Commissioner shall credit the amount in Savings Bank Account in any nationalized or Co-operative Bank and the Account shall be operated by the Commissioner for this purpose.

1. Added for G.O. Ms. No.1398 Revenue dated, 16th July, 1968.

2. Rule 31-B added by G.O. Ms. No.347, Commercial Taxes and Religious Endowments Department dated 7th October, 1993.

(6) In case of death of a servant while in service, the Commissioner shall sanction and pay a sum of Rs.30,000 from out of the Fund to the family of the deceased servant. If the legal heir is a minor, the amount shall be deposited in a nationalized or co-operative Bank in the name of the minor person and the amount with the interest accrued shall be paid as and when the person attains his legal majority.

(7) The executive authorities of the Institutions and the administrative authorities of the Department are responsible for the collection of the subscriptions due from all the servants and necessary entries shall be made as to the payment of yearly subscription, in the service register of the incumbent along with the certificate of service verification. Form of nomination shall be obtained from every servant and affixed to the Service Register of the employees. The claim shall be made by the eligible member of the family of the deceased servant through the Executive Officer or Trustee of the Institution and such applications shall be sent to the Commissioner through the administrative authority of the department having jurisdiction over the Institution. The recommendation of the authority shall contain the following particulars and documents and in the absence of any of the following no claim shall be entertained:

- (a) Date of birth (as per Service Register).
- (b) Date of entry into service.
- (c) Order No. and date of the authority sanctioning the post.
- (d) Date of death with original death certificate.
- (e) The nomination along with the Service Register.
- (f) Particulars regarding the remittance of subscription.
- (g) Legal heir certificate in original in the absence of Nomination.

(8) The Commissioner may prescribe forms for application, nomination and recommendation and for collection of subscription as may be necessary from time-to-time. .

(9) The commissioner may, at his discretion, relax any of the rules relating to the Family Benefit Fund Scheme in favour of the family of the deceased temple servant.

(10) The Rules relating to nomination and conditions for sanction of Family Benefit Fund Scheme shall apply to temple servants also.]

33. Savings. - Nothing contained in these rules shall adversely affect any hereditary or non-hereditary office-holder or servant, who has been holding any post immediately before the date of the commencement of these rules.

MANNER OF PROOF OF PROFESSING HINDU RELIGION RULES, 1961.

[Published in the Fort St. George Gazette part V, page 1080, dated 25th October, 1961.]

[G.O. No.4055 dated 23rd September, 1961]

1. Short title. - These rules may be called the "MANNER OF PROOF OF PROFESSING HINDU RELIGION RULES"

2. Pledge to be in the form prescribed.- Every person appointed or deemed to be appointed under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), shall sign a pledge in the form appended to the rules.

3. When the pledge should be taken.- The pledge referred to in Rule 2 may be caused to be taken by the appointee in the immediate presence of the Executive Officer or Chairman, Board of Trustees of the religious institution before the presiding deity in the nearest Hindu Religious Institution selected for the purpose, and two witnesses, and the fact of having done so

shall be reduced to writing and placed before the head of the office, who shall record the same and keep it as a permanent record along with the service register of the person concerned.

Explanation. – In the case of new appointees the pledge referred to herein shall be taken before they enter upon their duties.

APPENDIX

Form prescribed under Rule 2 issued under Sec.116 (2) (xxiv) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959).

“I.....son of.....residing at.....village,taluk.....district,.....appointed to the post ofdo solemnly swear that I am a Hindu by birth and profess the Hindu Religion.

Signature

Witnesses:

1.

2.

Sworn before me.

Signature and Designation of Officer.

THE KANYAKUMARI DEVASWOM (CONTRIBUTORY PROVIDENT FUND) RULES, 1961.

[G.O.No.347, Revenue, Dated 25th January, 1962.

Section 29 (2) (f) Contributory Provident Fund Rules.]

RULES

1. Short title and application.— (i) These Rules may be called THE KANYAKUMARI DEVASWOM (CONTRIBUTORY PROVIDENT FUND) RULES, 1961.

(2) It shall apply to the officers appointed by the Board on or after the 1st April, 1960 other than those who are entitled for pension.

2. Definitions.— (1) In these rules unless the context otherwise requires:

(a) 'Family' means;

(i) In the case of a male subscriber, the wife or wives and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber's wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance, she shall, henceforth be deemed to be no longer a member of the subscriber's family in matters in which these rules relate unless the subscriber indicates by express notice in writing to the Devaswoms Account Officer that she shall continue to be so regarded.

(ii) In the case of female subscriber, the husband and children of a subscriber and widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber by notice in writing to the Devaswom Account Officer expresses her desire to exclude her husband from the family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate unless the subscriber subsequently cancels formally in writing her notice excluding him.

(b) 'Fund' means the Kanyakumari Devaswom Contributory Provident Fund.

(c) 'Leave' means any kind of leave recognised by the leave rules applicable to the subscriber concerned.

(d) 'Pay' means the pay as defined in Tamil Nadu Fundamental Rules.

(e) 'Year' means financial year.

3. Controlling authority of the Fund.— Subject to the control of the Board, the Devaswom Account Officer shall be the controlling authority of the Fund.

4. Compulsory subscription.— The Officers to whom these rules apply shall compulsorily subscribe to the fund. Permission for admission to the Fund shall be obtained from the Devaswom Account Officer.

5. Procedure for admission to the Fund.— On receipt of the application in the form specified by the Board, the Devaswom Account Officer shall, after scrutiny, reject or admit the same. If the applicant is admitted to the Fund, he shall be assigned a number in the specified form through the Head of his office or directly as the case may be. Deduction of subscription to the Fund shall be made from the salary or establishment bill for the month in which the applicant is admitted to the Fund.

6. Nomination.— (1) A subscriber shall along with his application for admission to the Fund send to the Devaswom Account Officer a nomination in the form specified by the Board conferring on one or more persons the right to receive the amount that may stand to his credit in the Fund in the event of his death before that amount has become payable or having become payable has not been paid:

Provided that if at the time of making the nomination the subscriber has a family, the nomination shall not be in favour of any person other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1) he shall specify the manner in which the amount that may stand to his credit in the Fund at any time shall be distributed to each of the nominees.

(3) A subscriber may at any time cancel a nomination by sending a notice in writing to the Devaswom Account Officer:

Provided that the subscriber shall along with such notice send a fresh nomination made in accordance with the provisions of this rule.

(4) Every nomination made and every notice of cancellation given by a subscriber shall, to the extent it is valid, take effect on the date on which it is received by the Devaswom Account Officer.

(5) All nominations received in the Devaswom Account Office shall be recorded in their due order in a register in the form specified by the Board and the nomination papers filed in a file book kept for the purpose in the serial order.

7. Amount of subscription to be intimated each year.— (1) The subscriber shall intimate the fixation of the amount of his monthly subscription in each year in the following manner, namely—

(a) if he was on duty on 31st March of the preceding year, by giving his consent for the deduction in this behalf from his pay bill for the month of April in the concurrent year; and,

(b) if not by giving consent for the deduction in this behalf from his pay bill of the month during which he joins the Fund.

(2) The amount of the subscription as fixed in the above rule shall remain unchanged throughout the year.

8. Subscriptions to be deducted from the pay bills.— Officer drawing their pay on separate bill shall deduct their subscriptions from their bill. The subscriptions of other officers shall be deducted by the drawing officers concerned from their pay bills. Statement showing the details of deductions made shall be given in the form specified by the Board and shall be attached to each bill.

9. Conditions for giving the amount of subscription.— The amount of subscription fixed by the subscriber shall be subject to the following conditions, namely:-

(a) It shall be in whole rupees.

(b) It may be any sum not less than six naye paise in the rupee of his pay from time-to-time.

(c) Variations in rate of subscription shall be made only at the commencement of any financial year.

10. Contribution by the Board.— The Board shall make contribution to the Fund based on the pay of the subscriber from time-to-time. Such contribution shall be limited to 6 per cent of the pay drawn by a subscriber from time-to-time.

(2) The amount of contribution payable by the Board to the credit of each subscriber shall be calculated after the end of each year and credited to the subscriber's account rounded to the nearest whole rupee (50 naye paise or more counting as the next higher rupee).

(3) In the case of permanent employees working in Unincorporated Devaswoms, the amount of contribution payable by the Board shall be debited after the end of each year to the P.D. Devaswom concerned and necessary credit shall be made in the subscriber's account. The

Devaswom Account Officer shall also obtain and credit in the Devaswom Fund the amount so due from the P.D. Devaswoms concerned at the end of each year.

11. Interest on the amount to the credit of subscriber.— (1) The Board shall pay the amount to the credit of the account of a subscriber, interest at 2 and 1/2 per cent per annum or at such rate as the Board may from time-to-time specify after getting the approval of the Commissioner.

(2) Interest shall be credited with effect from 31st March of each year in the following manner, namely:-

(i) on the amount to the credit of subscriber on 31st March of the preceding year less any sums withdrawn during the current year interest for twelve months;

(ii) on all sums withdrawn during the current year, interest from 1st April of the current year up to the last date of the month preceding the month of withdrawal;

(iii) on all sums credited to a subscriber's account after 31st March of the preceding year, interest from the date of deposit up to 31st March of the current year; and

(iv) the total amount of interest shall be rounded off to the nearest rupee, fifty naye paise and above being taken as one rupee:

Provided that when the amount standing to the credit of a subscriber has become payable, interest shall thereupon be credited under the sub-rule in respect of only the period from the beginning of the current year or from the date of deposit, as the case may be, up to the date on which the amount standing to the credit of the subscriber becomes payable.

(3) For the purpose of this rule the date of deposit shall in the case of recoveries from emolument be deemed to be the first day of the month in which they are recovered.

(4) No interest shall be paid in respect of any period after the date which the Devaswom Account Officer has given notice in the form specified by the Board.

12. Closure of account.— (1) No subscriber shall be allowed to close his account and withdraw the amount to his credit in the fund before he actually retires.

(2) The amount to the credit of a subscriber in the fund shall be paid to him on his retirement or in the event of his death while in service in accordance with the provision in these rules.

(3) In the event of resignation of a subscriber or dismissal from service, he shall, unless the Devaswom Board otherwise directs, be paid only the amount of his own subscription together with interest thereon to the credit of the fund, the amount of the Board's contribution and interest thereon standing to his credit being withdrawn and credited as may be decided by the Board.

13. Grant of temporary advance.— (1) A temporary advance may be granted to a subscriber from the amount standing to his credit in the Fund at the discretion of the Board subject to the following conditions, namely:-

(a) No advance shall be granted unless the sanctioning authority is satisfied that the applicant's pecuniary circumstances justify it and that it will be expended in the following object or objects and not otherwise:-

(i) to pay expenses in connection with prolonged illness of the applicant or any person actually dependent on him;

(ii) to pay obligatory expenses in connection with marriages, funerals or ceremonies which by the religion of the subscriber it is incumbent upon him to perform;

(iii) to meet payment towards payment of a policy of assurance of the subscriber's own life;

(iv) to meet the expenditure on construction of buildings for the applicant's own residence on production of satisfactory evidence;

(v) for the purchase of National Savings Certificate in the name of the applicant; and

(vi) to pay for the overseas passage for reason of health or education of the applicant or any person actually dependent on him.

(b) An advance shall not except for special reasons to be recorded in writing be granted until at least twelve months have elapsed after the final repayment of all previous advances together with interest.

(c) An advance shall not except for special reasons exceed three months pay of the subscriber.

(d) The sanctioning authority shall record in writing its reason for granting the advance.

14. Recovery of the amount of advance.— (1) An advance shall be recovered from the subscriber in not less than 12 and not more than 24 instalments by compulsory deductions from the emoluments in addition to the monthly contribution under Rule 10. In special cases where the amount of advance exceeds three months pay of the subscriber the sanctioning authority may fix such number of instalments to be more than twenty-four but in no case more than thirty-six.

(2) Recovery shall be made monthly, commencing from the first payment of a month's pay after the advance is granted in the manner specified for the realisation of subscription.

(3) After the principal of the advance has been fully repaid, interest shall be recovered at the rate of 1/4 per cent of the principal for each month or broken period of a month during the period of drawal and complete repayment of the principal. Recoveries made on this account shall be credited as and when they are made to the account of the subscriber in the Fund.

(4) Interest shall ordinarily be recovered in one instalment, but if the period referred to in Clause (1) above exceeds twenty months, interest may if the subscriber so desired be recovered in two instalments. Payments shall be rounded off to the nearest rupee (fifty naya paise and above taken as one rupee).

(5) Application for advance shall be made in the form specified by the Board and the Devaswom Account Officer, after pre-audit, and on payment of the advance shall issue a recovery slip in the form specified by the Board.

15. Procedure for closing the accounts.— (1) The account of each subscriber shall be closed when he retires, proceeds on leave preparatory to retirement or otherwise quits the service or dies.

(2) When a subscriber's account is due to be closed for any of the reasons mentioned above, no further recovery on account of contribution or temporary withdrawal shall be effected from the pay due to him thereafter.

(3) When an account is to be closed, the Head of the Office shall immediately send to the Devaswom Account Officer through his departmental head a report to close his account in the form specified by the Board.

(4) On receipt of the above report, the Devaswom Account Officer shall take the necessary action to close the account and pay the balance in the account in the following manner, namely:

(i) When the subscriber retires or proceeds on leave preparatory to retirement or otherwise quits the Board the amount shall be paid to the subscriber himself.

(ii) When the subscriber dies leaving a family before the amount standing to his credit has become payable or where the amount has become payable but before payment has been made

(a) If a nomination made by the subscriber in accordance with the provisions of Rule 7 subsists the amount standing to his credit in the Fund or the part thereof to which the nomination relates shall become payable to his nominee or nominees in the proportion specified in the nomination.

(b) If no such nomination in favour of a member or members of the family of the subscriber subsists or if such nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall, notwithstanding any nomination purporting to be in favour of any person or persons other than a member or members of his family, become payable to the members of his family in equal shares.

(iii) When a subscriber dies leaving no family—

(a) If a nomination made by him under Rule 7 in favour of any person or persons subsists the amount standing to his credit in the fund or the part thereof which the nominations relate shall become payable to his nominee or nominees in the proportion specified in the nomination.

(b) If no such nomination made by him in favour of any one else subsists, the amount standing to his credit in the Fund shall be paid to the legal representatives of the estate as ascertained by a Court of law having competence to pass orders in this respect.

16. Payment of the Fund money to a minor beneficiary.— (1) Payment of the Contributory Provident Fund money due to a minor beneficiary of a deceased subscriber may be made to the guardian nominated by the subscriber in the declaration. When the subscriber has not nominated a guardian, a guardian appointed by a Court of law to receive payment on behalf of a minor beneficiary shall alone be recognized.

(2) Payment may, however, be made without requiring the production of a guardianship certificate from the Court if the share of a minor beneficiary does not exceed Rs.500 to the natural guardian of such minor beneficiary, or in the absence of a natural guardian to the person considered fit by the Devaswom Account Officer to receive payment on behalf of such beneficiary, or such a guardian who receives payment executing a bond signed by two solvent sureties agreeing to indemnify the Board against any subsequent claim which might arise.

17. Payment of the Fund money in the event of nominees not surviving.— In the event of the nominees not surviving, the amount shall be paid to the legal heirs or representatives and in doubtful cases, the Board shall obtain the order of the Commissioner. In the case of conflicting claims the Devaswom Account Officer may with the approval of the Commissioner require the claimants to produce a decree of a Court of law establishing their claims to the amount of subscription and interest due as against their opponents.

NOTE.— If the person, to whom any amount in the Fund or under a Policy is to be paid or reassigned under these rules is a lunatic, for whose estate manager has been appointed in this behalf, the payment, reassignment and delivery shall be made to such manager and not to the lunatic.

18. Statement of accounts to be furnished to the subscribers.— As soon as possible, after the accounts of a financial year are closed, each subscriber shall be furnished with a statement of his account in the form specified by the Board, together with interest made up to the last day of March. Subscribers shall satisfy themselves of the correctness of these statements and unless errors in these are brought to the notice of Devaswom Account Officer within three months from the date of their receipt, the Board shall not be responsible for any sum not thus acknowledged.

FUND – ANNADHAANAM SCHEME FUNDS – CONSTITUTION – ORDERS ISSUED.**Tamil Development – Culture And Religious Endowments Department.**

G.O.(Ms.) No.69

Dated: 15.4.2002

Read:

1. G.O.(D) No. Tamil Development – Culture and Religious Endowments Department, dated 11-3-2002.
2. Govt. Ir. No. 6308/RE1.1/2002-2, Tamil Development – Culture and Religious Endowments Department, dated 3-4-2002.
3. Special Commissioner, Hindu Religious and Charitable Endowments Administration Department, Letter No. 24691/2002/K2 dated 5.4.2002.

ORDER:

In Tamil Nadu, temples not only cater to the needs of the worshipping public but also undertake social and charitable services like maintenance of Colleges, Schools, Sidha Vaidhya Sala, Orphanages, etc., To extend the charitable activity of the temples, in Tamil Nadu, it has been decided to establish an “Annadhaanam Scheme Fund”. Accordingly, the Annadhaanam Scheme Fund is constituted.

(2) The “Annadhaanam Scheme Fund” shall be based on contribution and donations received from the public. This fund is being constituted to provide free mid-day meal to poor and needy public.

(3) The funds or any part thereof shall not be deployed for any other purpose outside the territory of India. Not more than 5% of receipts shall be spent for any Religious purpose. Under no circumstances, the trustees/Administrator or any other Office-bearers or their associates/relatives shall take any benefit or advantage directly or indirectly which will be detrimental to the object of the scheme.

(4) The Commissioner, Hindu Religious and Charitable Endowments Administration Department shall select the temples for this scheme wherever and whenever necessary, and he is the administrator of the fund received for this purpose in his office directly.

(5) The administrator of the “Annadhaanam scheme fund” is the Executive Officer of the temples concerned.

(6) The Secretary to Government, Tamil Development - Culture and Religious Endowments Department or any other officer to be directed by the Government shall take up necessary inspections to ensure proper management, utilization and maintenance of the funds.

(7) The investment of the funds shall be made according to the Income Tax Act, 1961 as amended from time-to-time. The administrator shall keep proper books of accounts of the income and expenditure which shall be closed every year on 31st day of March. The accounts shall be audited every year by a Chartered Accountant.

(8) The administrator shall open, operate and maintain a bank account in the name of “Annadhaanam Scheme Fund”. Such accounts shall be operated by the administrator. The said scheme is irrevocable.

(9) In the case of winding up of the said scheme in a particular temple, this net funds shall be disposed to such schemes or approved institutions which are having similar objects and enjoying exemptions under Sec.80(G) of the Income Tax Act, 1961.

ANNEXURE-1
NAMES OF THE TEMPLES SELECTED IN FIRST PHASE

Sl.No.	District	Name of the Temples	Remarks
		Arulmighu	
1.	Chennai	1. Parthasarathy Temple, Triplicane 2. Kapaleeswarar Temple, Mylapore 3. Vadapalaniyandavar Temple, Vadapalani	(3)
2.	Thiruvallur	1. Subramaniaswamy Temple, Tiruttani 2. Devikarumariamman Temple, Tiruverkadu 3. Thyagarajaswamy Temple, Tiruvottiyur.	(3)
3.	Kancheepuram	1. Devarajaswamy Temple, Kancheepuram 2. Kamatchiamman Temple, Mangadu	(2)
4.	Vellore	1. Lakshmi Narasimma Swamy Temple, Sholingur 2. Balamurugan Temple, Rathinagiri	(2)
5.	Thiruvannamalai	1. Arunachalaeswarar Temple, Thiruvannamalai 2. Renugadeviamman Temple, A.K. Padavedu	(2)
6.	Trichy	1. Aranganathaswamy Temple, Srirangam 2. Mariamman Temple, Samayapuram 3. Thayumanavarswamy Temple, Malaikottai 4. Vekkalamman Temple, Uraiur.	(4)
7.	Karur	1. Kalyanavenkatramanaswamy Temple, Thanthondrimalai	(1)
8.	Perambalur	1. Madhurakaliamman Temple, Siruvachoor	(1)
9.	Pudukottai	1. Shanthanayagi Temple, Pudukottai	(1)
10.	Thanjavur	1. Mariamman Temple, Punnainallur 2. Swaminathaswamy Temple, Swamimalai 3. Venkatachalapathyswamy Temple, Oppilliappan Koil	(3)
11.	Thiruvarur	1. Thyagaraja Swamy Temple, Thiruvarur	(1)
12.	Nagapattinam	1. Neelayathatchiamman Temple, Nagappattinam 2. Prasanna Mariamman Temple, Mayiladuthurai	(2)
13.	Villupuram	1. Anchaneyar Temple, Villupuram 2. Chandramouleeswarar Temple, Thiruvarakarai 3. Angalamman Temple, Melmalayanur	(3)
14.	Cuddalore	1. Padaleeswarar Temple, Cuddalore. 2. Devanathaswami Temple, Thiruvakindapuram	(2)
15.	Madurai	1. Meenakshi Sundareswarar Temple, Madurai 2. Koodalazhakar Temple, Madurai 3. Subramaniaswamy Temple, Thiruparankundram 4. Kallazhagar Temple, Azhagarkoil.	(4)
16.	Dindigul	1. Dhandayuthapaniswami Temple, Palani. 2. Kalagastheeswarar Temple, Dindigul	(2)
17.	Theni	1. Koumariamman Temple, Veerapandi.	(1)
18.	Sivagangai	1. Vettudaiyar Kaliamman temple, Ariyakurichi 2. Adaikkalamkatha Ayyanar Temple, Madapuram	(2)

19.	Ramanathapuram	1. Ramanathaswami Temple, Rameswaram	(1)
20.	Virudhunagar	1. Mariamman Temple, Irrukkankudi	(2)
		2. Nachiyar Temple, Srivilliputhur	
21.	Thirunelveli	1. Nellaiappar Temple, Tirunelveli	(3)
		2. Kuttralanathaswami Temple, Kuttralam	
		3. Shankaranarayanawami Temple, Sankarankoil	
22.	Tuticorin	1. Subramaniaswami Temple, Tiruchendur	(2)
		2. Shankararameswar Temple, Tuticorin	
23.	Kanniyakumari	1. Kumariamman Temple, Kanniyakumari	(2)
		2. Dhanumalayaswami Temple, Maruthamalai.	
24.	Coimbatore	1. Subramaniaswami Temple, Maruthamalai	(5)
		2. Koniamman Temple, Coimbatore	
		3. Vanabathrakaliamman Temple, Thekkampatti	
		4. Vazhailhollathu Ayyanar Temple, Ayyampalayam	
		5. Echanri Vinayagar Temple, Echanari	
25.	Nilgiris	1. Mariamman Temple, Udthagamandalam	(1)
26.	Erode	1. Bannai Mariamman Temple, Bannari	(3)
		2. Subramaniaswamy Temple, Sivanmalai	
		3. Sangameswarar Temple, Bhavani	
27.	Salem	1. Sugaveneswarar Temple, Salem	(2)
		2. Kottaimariamman Temple, Salem	
28.	Nammakkal	1. Arthanareeswarar Temple, Thiruchenkodu	(2)
		2. Lakshmi Narasimaswami temple, Namakkal.	
29.	Dharmapuri	1. Subramaniaswamy Temple, Dharmapuri	(1)

Total No. of Temples 63

GOVERNMENT OF TAMIL NADU

ABSTRACT

Hindu Religious and Charitable Endowments Department – Annadhaanam Scheme – Annadhaanam provided in temples – Extension of the scheme – Annadhaanam Scheme Fund constituted – orders issued.

TAMIL DEVELOPMENT – CULTURE AND RELIGIOUS ENDOWMENTS DEPARTMENT

G.O.(Ms.) No. 231

Dated: 25.9.2002

Read:

1. G.O.(D) No. 42 Tamil Development – Culture and Religious Endowments Department, dated 11-3-2002.
2. G.O.(Ms.) No. 69, Tamil Development – Culture and Religious Endowments Department, dated 15-4-2002.
3. Government Letter 16228/RE.1.1./2002 –1, Tamil Development – Culture and Religious Endowments Department, dated 22.8.2002.
4. Government Letter No. 18381/RE.1.1/2002-1, Tamil Development – Culture and Religious Endowments Department, dated 17.9.2002.

5. From the Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Administration Department, Letter No. 24691/2002/K2 dated 11.9.2002 and 17.9.2002.

ORDER:

To extend the charitable activity of the temples in Tamil Nadu, the "Annadhaanam Scheme Fund" was constituted in the Government Order second read above in selected temples all over Tamil Nadu to provide free mid-day meal to poor and needy public without any distinction of Caste, Creed or Religion, subject to the following conditions:

(i) The "Annadhaanam Scheme Fund" shall be based on contributions and donations received from the public. This fund is being constituted to provide free mid-day meal to poor and needy public.

(ii) The funds or any part thereof shall not be deployed for any other purpose outside the territory of India. Not more than 5% of receipts shall be spent for any Religious purpose. Under no circumstances, the trustees/Administrator or any other Office-bearers or their associates/relatives shall take any benefits or advantage directly or indirectly which will be detrimental to the object of the scheme.

(iii) The Commissioner, Hindu Religious and Charitable Endowments Administration Department shall select the temples for this scheme wherever and whenever necessary.

(iv) The administrator of the "Annadhaanam Scheme Fund" is the Executive Officer of the temples concerned. The Commissioner, Hindu Religious and Charitable Endowments Department is the administrator of the fund received for this purpose in his office directly.

(v) The Secretary to Government, Tamil Development - Culture and Religious Endowments Department or any other officer to be directed by the Government shall take up necessary inspections to ensure proper management, utilisation and maintenance of the funds.

(vi) The investment of the funds shall be made according to the Income Tax Act, 1961 as amended from time-to-time. The administrator shall keep proper books of accounts of the income and expenditure which shall be closed every year on 31st day of March. The accounts shall be audited every year by a Chartered Accountant.

(vii) The administrator shall open, operate and maintain a bank account in the name of "Annadhaanam Scheme Fund". Such accounts shall be operated by the administrator. The said scheme is irrevocable.

(viii) In the case of winding up of the said scheme in a particular temple, this net funds shall be disposed to such schemes or approved institutions which are having similar objects and enjoying exceptions under section 80(G) of the Income Tax Act, 1961.

2. The Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Administration Department in his letter 5 read above has stated that Annadhaanam Scheme has been introduced in 63 temples from 23.3.2002 in first phase; 63 temples from 15.8.2002 in second phase and 18 temples from 15.9.2002 in third phase and income tax exemption obtained for 63 temples based on the Government Order second read above, i.e. first phase and stated that to get similar exemption under Income Tax Act for the temple to which the scheme has been extended for second and third phases, he has requested for issue of similar Government orders. The Government has examined the request of the Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Administration Department and accordingly direct that the Annadhaanam Scheme Fund is constituted for temples selected in the

second phase as in the Annexures I and II respectively, subjected to the same conditions mentioned in Para 1 above.

ANNEXURE-1

NAME OF THE TEMPLES SELECTED IN SECOND PHASE FOR ANNADHAANAM SCHEME

SL.NO

Name of District, Temple and Town

CHENNAI

1. Arulmighu Ekambareswarar Temple, Mint Street, Chennai.
2. Arulmighu Gangadeeswarar Temple, Purasavalkam, Chennai.
3. Arulmighu Marundeeswarar Temple, Tiruvanmiyur, Chennai.
4. Arulmighu Mahalakshmi Temple, Besant Nagar, Chennai.
5. Arulmighu Mundagakkanniamman Temple, Mylapore, Chennai.

TIRUVELLORE

6. Arulmighu Mahishasuramarthini Temple, Matthur (attached to) Arulmighu Subramaniaswamy Temple, Tiruttani.

VELLORE

7. Arulmighu Ellaiamman Temple, Vettuvanam.

TIRUVANNAMALAI

8. Arulmighu Mariamman Temple, Pudur, Chengam.

KANCHEEPURAM

9. Arulmighu Kandaswamy Temple, Tirupporur, Chengalpattu Taluk.
10. Arulmighu Subramaniasamy Temple, Vallakkottai, Sriperumbudur Taluk.

ERODE

11. Arulmighu Subramaniasamy Temple, Chennaimalai.
12. Arulmighu Perumariamman Vagaraya Temple, Erode.
13. Arulmighu Kondathukaliamman Temple, Pariyur.
14. Arulmighu Mugudeswarar Vagayara Temple, Kodumudi.,
15. Arulmighu Veerakumarasamy Temple, Vellakoil.

COIMBATORE

16. Arulmighu Massaniamman Temple, Anaimalai.
17. Arulmighu Patteeswaraswamy Temple, Perur.
18. Arulmighu Ranganathaswamy Temple, Karamadai.
19. Arulmighu Thandumariamman Temple, Coimbatore.
20. Arulmighu Visweswarar and Veeraraghavaperumal Temple, Tiruppur.
21. Arulmighu Iyyappaswamy Temple, Pudusithapudur.
22. Arulmighu Avinasalingeswara Temple, Avinasi.

THE NILGIRIS

23. Arulmighu Vinayagar Temple, Coonoor.

PERAMBALUR

24. Arulmighu Kaliyugavaradharajaperumal Temple, Kallankurichi.

TIRUCHIRAPALLI

25. Arulmighu Jambugeswarar Akilandeeswariamman Temple, Tiruvanaikaval.
26. Arulmighu Prasanna Venkatachalapathy Temple, Gunaseelam.

KARUR

27. Arulmighu Kalyanapasupatheeswarar Temple, Karur Town.

PUDUKOTTAI

28. Arulmighu Veeramaakaliamman Temple, Peramoor, Kujathur Taluk.

THANJAVUR

29. Arulmighu Kodaiamman Temple (Attached to) Aranamani Devasthanam, Thanjavur Town
 30. Arulmighu Mullaivananathaswamy Temple, Thirukkarugavur.
 31. Arulmighu Thenubureeswarar Temple, Patteeswaram.
 32. Arulmighu Naganathaswamy Temple, Thirunageswaram.

THIRUVARUR

33. Arulmighu Rajagopalaswamy Temple, Mannargudi.
 34. Arulmighu Mahamariamman Temple, Valangaiman.
 35. Arulmighu Abathsagayeswarar Temple, Alangudi, Valangaiman Taluk.

NAGAPATTINAM

36. Arulmighu Subramaniaswamy Temple, Ettukudi.
 37. Arulmighu Abathsagayeswarar Temple, Thirumananjeri, Mayiladuthurai Taluk.

CUDDALORE

38. Arulmighu Viruthagireeswarar Temple, Viruthachalam.
 39. Arulmighu Kolanjiappar Temple, Manavalanallur, Viruthachalam.

VILLUPURAM

40. Arulmighu Subramaniaswamy Temple, Mayilam.

SIVAGANGAI

41. Arulmighu Karpagavinayagar Temple, Pillayarpatti.
 42. Arulmighu Koppudainayagamman Temple, Karaikudi.
 43. Arulmighu Vannivinayagar Temple, Madam Chinna Odaipatti.
 44. Arulmighu Viswanathaswami Temple, Sivakasi.

RAMANATHAPURAM

45. Arulmighu Bagampiriyal Sametha Vanmeeganathaswamy Temple, Tiruvotriyur.
 46. Arulmighu Mariamman Temple, Madurai Vandiyur Theppakulam (Attached to) Arulmighu Meenakashi Sundareswarar Temple, Madurai.
 47. Arulmighu Kalamegaperumal Temple, Thirumogur.
 48. Arulmighu Solaimalai Murugan Temple, Alagarkoil.

DINDIGUL

49. Arulmighu Gobinathaswamy Temple, Reddiyarchatram.
 50. Arulmighu Kottai Mariamman Temple, Dindigul.

THENI

51. Arulmighu Meenakshi Sundareswarar and Dharmasastha Temple, Andipatti.

THIRUNELVELI

52. Arulmighu Kasiviswanathaswamy Temple, Tenkasi.

THOOTHUKUDI

53. Arulmighu Poovananathaswamy Temple, Koilpatti.
 54. Arulmighu Mutharamman Temple, Kulasekarapattinam.

KANNIYAKUMARI

55. Arulmighu Bagavathiamman Temple, Mandaikkadu (Attached to Kanniyakumari Devasthanam)

SALEM

56. Arulmighu Vennangudi Muniappaswamy Temple, Jagir Ammapalayam.
57. Arulmighu Orukkamalai Avardhatajaperumal Temple, Sangagiri Town.
58. Arulmighu Prasanna Venkatesaperumal Temple, Sevapet.
59. Arulmighu Prasanna Venkattaramanaswamy Temple, Karuvalli, Omalur Taluk.
60. Arulmighu Badrakaliamman Temple, Macheri.
61. Arulmighu Siddeswarar Temple, Kanjiamalai.

DHARMAPURI

62. Arulmighu Chandirasoodeswarar Temple, Hosur.

NAMAKKAL

63. Arulmighu Athanur Amman Temple, Athanur, Rasipuram.

GOVERNMENT OF TAMILNADU**Abstract**

Secretarial – Introduction of single File System between Department of Secretariat and heads of Departments located in Chennai city – Orders Issued.

PERSONNEL AND ADMINISTRATIVE REFORMS (A) DEPARTMENT

G.O.Ms.No.135

Dated : 14.11.2002

Read:

1. G.O.Ms.No. 1403 Personnel and Administrative Reforms (AR) Department dated 2.5.75.
2. G.O.Ms.No. 669 Personnel and Administrative Reforms (A) Department dated 23.12.88.

ORDER:

As per the recommendations of the Administrative Reforms Commission in 1975 orders were issued in the Government order first read above introducing the Single File System in Secretariat for the period of six months. In respect of some routine subjects like sanction of rent staff in the Government order second read above, the said system was dispensed with for the Secretariat files should not be sent outside the Secretariat.

2. However, in order to reduce the workload, time delay and stationery, the significance of introducing the single file system wherever possible has again been examined by the Government in detail. After detailed examination, the Government has decided to introduce the said system initially for a period of six months between the Departments of Secretariat and the heads of Departments located in Chennai city in respect of following subjects only:-

- (i) Schemes.
- (ii) Postings and transfers.
- (iii) Preparation of panels for promotions.
- (iv) Permission under Government Servants Conduct Rules.
- (v) Fixation and revision of pay.
- (vi) Further continuance/permanent retention of temporary posts.

(vii) review under FR 56(2) of officers under the control of Heads of Departments.

3. The Government accordingly direct that single file system be introduced forthwith between the Departments of Secretarial and the Offices of the Heads of Departments located in the Chennai city alone. In respect of the subjects referred to at para 2 above and that the said system be continued for a period of six months. The Government also direct that at the end of six months, all the Secretaries to the Government should send a report on the functioning of the single file system to the Secretary to Government, Personnel and Administrative Reforms Department holds to review the possibility of continuing the said system beyond six months.

4. Keeping in mind the basic objective of avoiding/minimizing repetitious work and time thereon, the following are the guidelines to be scrupulously adhered to while implementing the single file system:-

(i) A self-contained note should be recorded in the file of the Office of the Head of the Department. Single File should be complete in all respects to enable the Secretariat Department to take a decision expeditiously. It should be ensured that:

(a) every point for decision or order is clearly brought out.

(b) all the relevant papers are placed in the file.

(c) a clear statement is included in the self-contained note that the proposal is covered by the existing budget provision, or if it is a proposal which involves fresh expenditure, adequate justification is given.

(ii) All files originating from the Head of the Department need not be examined by the officers at all levels in the Secretariat. Hence, Secretaries to Government shall issue orders/instructions to the Heads of Departments indicating which type of file should be marked to which Officer in the Secretariat and also issue orders indicating the levels through which different types of files will move.

(iii) Head of the Department may, if necessary, retain copies of notes/papers of the Single File before sending it to the Secretariat.

(iv) Single Files should be delivered under acknowledgement while coming from the Head of the Department and also while being returned to the Head of the Department.

(v) The Secretariat notings on the Single File System should start on a new page and the notings done sequentially.

(vi) Whenever the need arises to issue a Government Order, such an order should be issued by the Secretariat Department and a copy placed in a Single File before returning it to the Head of Department. The Government Order should be retained in the Department of Secretariat with note file which leads to the issue of the Government Order.

(vii) If the Secretariat Department considers it necessary, it can retain copies of the connected important documents for reference, before returning the file to the Head of the Department. There should however be no undue delay in the process of taking copies.

(viii) Easy retrieval of files. Correct instruction regarding classification should be given before closing the files. Record rooms should be periodically inspected by second level officers in Heads of Departments offices.

(ix) Adequate care and caution should be exercised while sending the files to the Secretariat and taking them back to the office of the Head of the Department so that files are duly acknowledged and are in full shape without loss of any sheet.

(x) A responsible messenger from the office of the Head of Department should be engaged exclusively for the above purpose and he should be provided with necessary conveyance

and leather boxes for the transportation of files from the office of the Head of the Department and from the Secretariat.

(xi) The leather boxes containing files should be sealed every time while sending/returning them to the respective offices.

(xii) Necessary arrangements should be made in the Tapal section of both the Department of Secretariat and Head of the Department for sending/receiving the boxes containing files.

(BY ORDER OF THE GOVERNOR)

SUKAVANESHVAR,

CHIEF SECRETARY TO GOVERNMENT

Now this value is omitted by Amendment Act 39 of 1996 ref.9.12.1996 and by Incorporation of New rules, District Committee Rules, 1997.

Hindu Religious and Charitable Endowments Department – Annadhaanam Scheme – Annadhaanam provided in temples – Extension of the scheme – Annadhaanam Scheme Fund Constituted – orders issued.

**TAMIL DEVELOPMENT – CULTURE AND RELIGIOUS
ENDOWMENTS DEPARTMENT**

G.O.(Ms.) No.107

Dated: 26.5.2003

Read:

1. G.O.(D) No.42, Tamil Development – Culture and Religious Endowments Department, dated 11-3-2002.
2. G.O.(Ms.) No.69, Tamil Development – Culture and Religious Endowments Department, dated 15-4-2002.
3. G.O.(Ms.) No.231, Tamil Development – Culture and Religious Endowments Department, dated 25.9.2002.
4. Government Letter No.2634/RE.1.1/2003-1, dated 17.4.2003.
5. From the Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Administration Department, Letter No. 24691/2002/K2 Dated 30.4.2003.

ORDER:

To extend the charitable activities of the temples, in Tamil Nadu, the “Annadhaanam Scheme Fund” was constituted in the Government Order second read above in selected temples all over Tamil Nadu to provide free mid-day to poor and needy public without any distinction of Caste, Creed or Religion, subject to the following conditions:

(i) The “Annadhaanam Scheme Fund” shall be based on contribution and donations received from the public. This fund is being constituted to provide free mid-day meal to poor and needy public.

(ii) The funds or any part thereof shall not be deployed for any other purpose outside the territory of India. Not more than 5% of receipt shall be spent for any Religious purpose. Under no circumstances, the trustees/Administrator or any other office-bearers or their associates/relatives shall take any benefits or advantage directly or indirectly which will be detrimental to the object of the scheme.

(iii) The Commissioner, Hindu Religious and Charitable Endowments Administration Department shall select the temples for this scheme wherever and whenever necessary.

(iv) The administrator of the "Annadhaanam Scheme Fund" is the Executive Officers of the temples concerned. The Commissioner, Hindu Religious and Charitable Endowments Department is the administrator of the fund received for this purpose in his office directly.

(v) The Secretary to Government, Tamil Development - Culture and Religious Endowments Department or any other officer directed by the Government shall take up necessary inspections to ensure proper management, utilization and maintenance of the funds.

(vi) The investment of the funds shall be made according to the Income Tax Act, 1961 as amended from time-to-time. The administrator shall keep proper books of the accounts of the income and expenditure which shall be closed every year on 31st day of March. The accounts shall be audited every year by a Chartered Accountant.

(vii) The administrator shall open, operate and maintain a bank account in the name of "Annadhaanam Scheme Fund". Such accounts shall be operated by the administrator. The said scheme is irrevocable.

(viii) In the case of winding up of the said scheme in a particular temple, this net funds shall be disposed to such schemes or approved institutions having similar objects and enjoying exemptions under Section 80(G) of the Income Tax Act.

(2) The Annadhaanam scheme fund constituted in G.O. second read above has been extended to 81 temples in the G.O. third read above. The Special Commissioner and Commissioner Hindu Religious and Charitable Endowments Administration Department in his letter 5th read above has stated that as per the Government orders issued, certificates are obtained for Income-Tax exemption for the donations received for Annadhaanam and requested for orders of the Government, for getting similar exemption under Section 80(G) of Income-Tax Act, 1961 for 18 temples in the fourth phase. The Government has examined the request of the Special Commissioner and Commissioner, Hindu Religious and Charitable (Admn) Endowments Department, and accordingly direct that Annadhaanam Scheme fund is constituted for 18 temples selected in fourth phase, as in the Annexure subject to the same conditions mentioned in para 1 above.

ANNEXURE-I

NAME OF THE TEMPLE SELECTED IN FOURTH PHASE FOR

ANNADHAANAM SCHEME

S.No:

Name of the District, Temple and Town

CHENNAI

1. Arulmighu Agastheeswarar Temple and Prasanna Venkatesa Perumal Temple, Nungambakkam, Chennai.
2. Arulmighu Sakthi Vinayagar Temple, K.K. Nagar, Chennai.

TRICHY

3. Arulmighu Subramaniaswamy Temple, Kumaravayalur.
4. Arulmighu Uthamar Temple, Pitchandaarkoil.

PERAMBALUR

5. Arulmighu Madanagopalaswamy Temple, Perambalur.

THANJAVUR

6. Arulmighu Neelaganda Pillaiyar Temple, Eandal, Peravoorani Taluk.
7. Arulmighu Sooriyanarayana Perumal Temple, Sooriyanar Koil, Tiruvidaimarudur Taluk.

NAGAPATTINAM

8. Arulmighu Vedharanyeswarar Temple, Vedaranyam.
9. Arulmighu Amirthakadeswarar Temple, Thirukkadaiyur, Tharangambadi Taluk.
10. Arulmighu Vaithyanathaswamy Temple, Vaitheeswaran Koil.

THENI

11. Arulmighu Moongilanai Kamatchiamman Temple, Devathanapatti.

SIVAGANGAI

12. Arulmighu Muthumariamman Temple, Meenatchipuram, Karaikudi Town.

VIRUDHNAGAR

13. Arulmighu Vaithyanathaswami Temple, Madavar Valagam.

KANYAKUMARI

14. Arulmighu Nagaraja Temple, Nagerkoil (Kanyakumari Devasthanam)
15. Arulmighu Esakkiamman Temple, Muppanthal.

ERODE

16. Arulmighu Chelleeswarar Vagaira Temple, Andhiyur, Erode.

COIMBATORE

17. Arulmighu Mariamman Vinayagar Temple, Soolakkal.

SALEM

18. Arulmighu Kasi Viswanathaswamy Temple (Attached to Arulmighu Sugavaneswarar Temple) Salem.

INSTALLATION, SAFE-GUARDING AND ACCOUNTING OF HUNDIALS RULES, 1975.

[G.O.Ms.No.1231, Commercial Taxes and Religious Endowments, dated 21.10.75]

In the exercise of powers conferred under Clause (XXVII), Sub-section (2) of Section 116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), the Governor of Tamil Nadu hereby makes the following rules:

RULES

1. Short Title.- (1) These Rules may be called "THE INSTALLATION, SAFE-GUARDING AND ACCOUNTING OF HUNDIALS RULES, 1975.

(2) These rules shall apply to every hundial and other receptacle either permanently embedded in the religious institution or temporarily used during the festivals and other occasions.

¹[**2. Definition.-** In these rules, unless the context otherwise requires.-

(a) "Appropriate authority" means;

(i) In relation to Religious institution whose assessable annual income is less than Rupees Ten thousand.	The Assistant Commissioner
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(ii) In relation to Religious institution whose assessable annual income exceeds Rs.10,000 but does not exceed Rs.10 lakhs.	The Deputy Commissioner
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(iii) In all other cases.	The Commissioner
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(b) "Executive Authority" means the Chairman, Board of trustees, or a Trustee including the hereditary trustee and the Executive Officer appointed to the Religious Institutions.]

3. Permanent.- (1) Every permanent hundial or receptacle shall be embedded in the floor, properly secured by masonry construction and shall be located at such place as may be approved by the appropriate authority and serially numbered.

(2) Every permanent hundial or receptacle shall be kept under double lock with locks of atleast two different patterns.

²[(3) The keys of one lock shall be with the Executive Officer if he has been appointed and the keys of the other lock shall be with the Chairman, Board of trustees or if there is no Chairman with any one of the trustees including the hereditary trustee as appointed by the appropriate authority.

(4) When there is no Executive Officer, the keys of one lock shall be with the Chairman, Board of trustees and the keys of the other lock shall be with any one of the trustees (hereditary or non-hereditary) approved by the appropriate authority. If there is no Chairman, but more than one trustee, the keys of each lock shall be with two different trustees (hereditary or non-hereditary) as may be approved by the appropriate authority.

(5) If there is only one trustee and if there is no Executive Officer, the key of one lock shall be with the trustee (hereditary or non-hereditary) and the keys of the other lock shall be deposited in the office of the appropriate authority].

(6) Every permanent hundial or receptacle shall be opened once in a month where the monthly collection from the hundials and receptacle is Rs.5,000 (Rupees five thousand only) and more and in other cases as often as may be necessary. The Hundials shall be opened and the

1. Rule 2 substituted by G.O.Ms.No.506, Commercial Taxes and Religious Endowments dated 13th December, 1991.

2. Sub-rules (3), (4) and (5) substituted by G.O.Ms.No.506, Commercial Taxes and Religious Endowments dated 13th December 1991. Substituted for the words "or the other Trustees" by *ibid*.

cash or other valuables in them shall be counted or accounted in the presence of an officer of the department deputed by the appropriate authority.

Notice of the proposal to open the hundials shall be given to the appropriate authority atleast two weeks before the date of opening. The hundials shall after the opening of each lock be locked in the presence of the Chairman, Board of Trustees or others including the Hereditary Trustee as the case may be, the Executive Officer and the Officer of the department, authorized by the appropriate authority and sealed with the departmental seal by the said officer.

4. Temporary Hundial.- Every hundial or receptacle installed for festivals or other occasion shall be sealed by the Inspector or other officer deputed by the appropriate authority before they are actually installed and the keys of the same shall be put in a bag and the bag sealed with the departmental seal and handed over to the concerned Executive Authorities of the religious institution. The bag shall be opened in the presence of those present at the time of opening of hundials or receptacles by the officer of the department authorized by the appropriate authority. The provisions of Rule 3(6) in so far as they relate to the opening and counting of permanent hundials and receptacles and their closure and sealing shall apply to the temporary hundials referred to in this rules. The temporary hundials shall be serially numbered and a record of the same kept in the religious institutions.

5. Maintenance of Register.- The contents of all the Hundials and other receptacles shall be recorded in the Hundial Assortment Register and signed by the concerned Executive Authorities and the officer of the Department authorized in this behalf besides members of the public if any, present. Atleast two members of the public present shall sign in the Hundial Assessment Register. The proceeds of the Hundials and other receptacles shall be immediately credited to the accounts, due publicity should be given to the public regarding the date of counting.

Explanation-I: "Big Temple" means a religious institution whose hundials receipt exceeds Rs.50,000 (Rupees fifty thousand only) per annum.

Explanation II: "Due publicity" means announcement of the date of opening of hundials by publishing a notice on the notice board of the Devasthanam, the interval between the date of such publication and the date of opening and counting the hundial being not more than 7 days and not less than 3 days.

6. Arrangements for sealing of Hundials.- It shall be lawful for the appropriate authority to direct the Executive Officer or other Executive Authority of religious institutions to install a hundial or hundials where there is more, or to install additional hundial or hundials where there is already one or more hundials.

7. Installation of Hundials for specific purposes.- Hundials for specific purposes such as Thiruppani, etc., shall be installed only after getting the approval of appropriate authority and with the concurrence of the Trust Board and the rules applicable to the other hundials or receptacle installed will apply to these hundials also.

8. Prevention from Theft, Fire, etc.- All preventive steps shall be taken by the Executive Authority to safeguard the hundials from theft, fire, etc.,

9. Arrangements for opening of Hundials in cases of emergencies.- In case of an emergency like fire, accident, attempted theft or non-Co-operation between the Executive authority and in other similar cases, the appropriate authority may use his discretion in the matter of opening and crediting the proceeds thereof in the bank account in the name of the temple, closing the seal of the hundials and report the fact to the Commissioner for approval.

TAMIL NADU TEMPLE ENTRY AUTHORISATION ACT, 1947**(Tamil Nadu Act, V of 1947.)**

An Act to authorize entry into Hindu temples in Tamil Nadu and the offer of worship therein by (all classes of Hindus).

Whereas it is the policy of the Provincial Government to remove the disabilities imposed on certain classes of Hindus against entry into Hindu temples in the State.

And whereas the Provincial Government are satisfied, from the rapidity with which, under pressure of Hindu public opinion, a number of temples have been thrown open to (certain classes of Hindus) in recent months, under the provisions of the Tamil Nadu Temple Entry Authorisation and Indemnity Act, 1939 (Tamil Nadu Act XXII of 1939) that the time has now arrived for throwing open to all classes of Hindus every Hindu temple in the State.

Statement of Objects and Reasons.— See Fort St. George Gazette, dated 28th January, 1947, Part IV-A, pages 93-94. This Act was extended to the merged State of Pudukottai by section 3 of, and the first schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

And whereas the State Government considers that the provisions of the said Act are inadequate for early and complete implementation of the policy of the State Government aforesaid;

It is hereby enacted as follows:-

1. Short title, extent and commencement.—(1) This Act may be called THE [TAMIL NADU] TEMPLE ENTRY AUTHORISATION ACT, 1947.

(2) It extends to the whole of the State of Tamil Nadu.

(3) This section shall come into force at once and remaining provisions of this Act shall come into force on such a date as the State Government may, by notification in the [Tamil Nadu Government] Gazette, appoint.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context.-

(1) 'temple' means a place by whatever name known, which is dedicated to or for the benefit of or used as of right by the Hindu community or any section thereof, as a place of public religious worship, and includes subsidiary shrines and mantapams attached to such place;

(2) 'worship' means such religious service as the bulk of the worshippers may offer, or participate in accordance with such rules and regulations as may be made under this Act.

3. Right of excluded classes to enter and offer worship in temples.—(1) Notwithstanding any law, custom or usage to the contrary, (2) every Hindu irrespective of the caste or sect to which he belongs shall be entitled to enter any Hindu temple and offer worship therein in the same manner and to the same extent as, (3) Hindus in general or any section of Hindu; and (4) no Hindu shall, by reason only of such entry of worship, whether before or after the commencement of this Act, be deemed to have committed any actionable wrong or offence be sued or prosecuted therefor.

(2). Without prejudice to the generality of the foregoing provision, it is hereby declared that the right conferred by sub-section (1) shall include the following rights if, and to the extent to which, they are, (5) enjoyed by Hindus in General, or any section of Hindus-

(a) The right to bathe in, or use the waters of any sacred tank, well, spring or water-course appurtenant to the temple, whether situated within or outside the precincts thereof.

4. Power of trustees to make regulations for the maintenance of order and decorum, the due performance of rites and ceremonies in temples.— The trustee or other authority

in-charge of a temple shall have power, subject to the control of the State Government and to any rules which may be made by them, to make regulations for the maintenance of order and decorum in the temple and the due observance of the religious rites and ceremonies performed in the temple, but such regulations shall not discriminate in any way against any Hindu on the ground that he belongs to a particular caste or sect.

5. Sanction for institution or continuance of suits, prosecutions, etc.,— (1) No suit for damages, injunction or declaration or for any other relief, no prosecution for any offence and no application or other proceedings under the Tamil Nadu Hindu Religious Endowments Act, 1863 or any other law, shall be instituted in respect of any entry into or worship in any other law, shall be instituted in respect of any entry into or worship in any temple, whether before or after the commencement of this Act, on the sole ground that such entry or worship is by a Hindu belonging to a particular caste or sect.

(2) No suit, prosecution, application or proceedings of the nature aforesaid, instituted before the commencement of this Act, shall be continued thereafter, without the sanction of the State Government.

6. Power to decide disputes.— If any question arises as to whether a place is or is not a temple as defined in this Act, the question shall be referred to the State Government and their decision shall be final subject, however to any decree passed by a competent Civil Court in a suit filed before it within six months of the date of decision of the State Government.

7. Penalties.— Whoever

(i) prevents a Hindu from exercising any right conferred by this Act; or

(ii) molests or obstructs (a Hindu) in the exercise of any such right shall be punishable, in case of a first offence, with fine which may extend to one hundred rupees, and in the case of a second or subsequent offence, with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

¹[7-A. Offences under Sec.7 to be cognizable. - All offences punishable under Sec.7 shall be cognizable].

8. Rules. - (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act in respect of temple generally or of any temple or class of temples.

(2) All Rules made under this section shall be published in the *Fort St. George Gazette** and, on such publication, shall have effect as if enacted in this Act.

9. Power to remove difficulties. - If any difficulty arises in giving effect to the provisions of this Act, the State Government, as occasion requires, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

²[10. Repealed].

²[11. Repealed].

1. Sec.7-A was inserted by the Tamil Nadu Act (XIII of 1949).

*Now, the *Tamil Nadu Government Gazette*.

2. Secs.10 and 11 were repealed by Sec.2 of, and the First Schedule to, the Tamil Nadu Amending Act, 1952 (Tamil Nadu Act XI of 1952).

RULES UNDER THE TAMIL NADU TEMPLE ENTRY AUTHORIZATION ACT, 1947.

(TAMIL NADU ACT V OF 1947)

(G.O.Ms.No.164, Firka Development, 23rd March, 1948.)

In exercise of the powers conferred by Sec.8 of the Tamil Nadu Temple Entry Authorization Act, 1947 (Tamil Nadu* Act V of 1947), His Excellency the Governor of Tamil Nadu* hereby makes the following Rules:-

RULES

1. In these Rules, the expression "Executive Authority of a temple" shall mean the trustee or other authority in-charge of a temple.

2. Worshippers shall conform to the regulations made by the Executive Authority of a temple for the maintenance of order and decorum in the temple and the due observance of the religious rites and ceremonies performed in the temple:

Provided that if such regulations are amended or varied by the Hindu Religious Endowments Board** under Rule 10, worshippers shall conform to the regulations as so amended or varied.

3. The classes of persons mentioned hereunder shall not be entitled to enter or offer worship in a temple or bathe in or use the waters of any sacred tank, well, spring or water-course appurtenant to the temple whether situate within or outside the precincts thereof, or any sacred place including a hill or hillock or a road, street or pathway, which is requisite for obtaining access to the temple:

- (a) Persons who are not Hindus;
- (b) Person under pollution arising out of birth or death in their families;
- (c) Women at such times during which they are not, by custom and usage, allowed to enter temples;
- (d) Drunken or disorderly persons;
- (e) Persons suffering from any loathsome or contagious disease;
- (f) Persons of unsound mind except when taken for worship under proper control and with the permission of the Executive Authority of the temple concerned;
- (g) Professional beggars.

4. No person shall enter into any temple premises unless he has had a bath and wears clothes of such materials and in such manner as is customary in such temple. No person shall enter a temple with any footwear.

5. No person shall:

- (i) within the temple premises, spit, chew betel, tobacco or any similar article, or smoke, or carry with him into the temple, any articles for smoking, or;
- (ii) take into the temple, fish, eggs, meat, flesh, toddy, arrack or other intoxicants, or any

*Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

**According to Sec.117 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), any reference to the Board or its President or Commissioner thereof contained in any enactment in force in the extend to three hundred and thirty from the 30th September, 1951, be construed as a reference to the Commissioner appointed under the Tamil Nadu Hindu Religious and Charitable Endowments Act,

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articles or animal, inappropriate according to the custom or usage of the temple concerned, or;

(iii) do any act which is opposed to custom or established usage of the temple or would tend to derogate from the purity and cleanliness of the temple and its premises.

6. No person shall interrupt the worship in a temple by loud conversations or other demonstrations which will derogate from the solemnity or the proper atmosphere of worship in the temples.

7. Tanks or wells or other water-courses used exclusively for particular functions or by particular functionaries of a temple shall continue to be so used exclusively for such functions and by such functionaries.

8. The temple buildings and premises shall not be used for purposes not connected with or arising from the worship, usages and observations of such temples.

9. No Executive Authority of a temple shall be entitled to introduce innovations concerning the time, place or mode of worship in the temple which might prejudicially affect the rights and facilities which worshippers had generally exercised in respect of those matters before the passing of the [Tamil Nadu]¹ Temple Entry Authorization Act, 1947.

10. Regulations made by the Executive Authority of a temple may be rescinded, revoked, amended or varied by the Hindu Religious Endowments Board.*

11. If any person contravenes or is suspected or believed by the Executive Authority of a temple to have contravened any of the provisions of these rules, it shall be lawful for the Executive Authority of the temple concerned, to direct such person to remove himself from the temple or its premises and in case, such person refuses to abide by such directions, to cause him to be removed from the temple or its premises.

12. No suit, prosecution or other legal proceeding shall lie against any Executive Authority of a temple or any person acting under his direction for anything in good faith done in pursuance of these Rules.

13. If any difficulty arises regarding the interpretation or carrying out of any of the provisions of these Rules, the matter shall be referred to the [State]² Government whose decision shall be final.

14. Copies of the orders passed by the Government under Sec.6 of the Act shall in addition to being communicated to the person who raises the question under the said section and to the Trustees of the temples concerned where such persons do not include the Trustees, be affixed on the notice board or front door of the temple and on the notice board, the offices of the collector of the district in which the temple is situated and also of the Board* and of the Assistant Commissioner, if any, having jurisdiction. Such affixture should be deemed to be sufficient intimation to the persons affected by the orders of the Government.

1. Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

*According to Sec.117 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), any reference to the Board or its President or Commissioner thereof contained in any enactment in force in the State of Tamil Nadu or in any notification, order, scheme, rule, form or bye-law made under any such enactment and in force in the State, shall, on and from the 30th September, 1951, be construed as a reference to the Commissioner appointed or deemed to have been appointed under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959).

2. Substituted for the word "Provincial" by the Tamil Nadu Adaptation of Laws Order, 1970

**THE TAMIL NADU ANIMALS AND BIRDS SACRIFICES
PROHIBITION ACT, 1950
(ACT XXXII of 1950)**

[Received the assent of the Governor on the 12th December, 1950.

Published in the Fort St. George Gazette, dated the 19th December, 1950.]

An Act to prohibit the sacrifice of animals and birds in or in the precincts of Hindu temples in the State of Tamil Nadu.

Preamble.— Whereas it is expedient to prohibit the sacrifice of animals and birds in or in the precincts of Hindu temples in the State of Tamil Nadu. It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called THE TAMIL NADU ANIMALS AND BIRDS SACRIFICES PROHIBITION ACT, 1950.

(2) It extends to the whole of the State of Tamil Nadu.

(3) This section shall come into force at once and the rest of this Act shall come into force on such date as the State Government may, by notification in the [Tamil Nadu Government] Gazette appoint.

2. Definitions.— In this Act unless there is anything repugnant in the subject or context.-

(a) "Precincts" in relation to a temple includes all lands, and buildings near a temple, whether belonging to the temple or not, which are ordinarily used for purpose connected with the worship, whether conducted inside the temple or outside and in particular the mandapams, prakarams, back-yards and front-yards of the temple by whatever name called, and also the ground on which the temple car ordinarily stands;

(b) "sacrifice" means the killing or maiming of any animal or bird for the purpose, or with the intention, of propitiating any deity;

(c) "temple" means, in any area in the State elsewhere then in the Kanyakumari District and the Shencottah Taluk of the Tirunelveli District, a temple as defined in Sec.6, Clause (17) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1951 (Tamil Nadu Act XIX of 1951), and in any area in the Kanyakumari District and the Shencottah Taluk of the Tirunelveli District, a temple as defined in Sec.2, Clause (1), of the Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950 (Travancore - Cochin Act XXVII of 1950).

3. Sacrifices in temple or its precincts prohibited.— No person shall sacrifice any animal or bird in any temple or its precincts.

4. No person shall.—

(a) officiate or offer to officiate at; or

(b) perform or offer to perform; or

(c) serve, assist or participate, or offer or serve, assist or participate in, any sacrifice in any temple or its precincts.

5. Temple or its precincts not to be allowed to be used for sacrifice.— No person shall knowingly allow any sacrifice to be performed at any place which-

(a) is situated within any temple or its precincts; and

(b) is in his possession or under his control.

6. Penalties.— (1) Whoever contravenes the provisions Sec.3 shall be punished with fine which may extend to three hundred rupees;

(2) Whoever contravenes the provisions of Sec.4 shall be punished with fine which may extend to three hundred rupees;

Provided that if the offender is an officer, servant, authority, trustee or priest of the temple or the holder of an office in receipt of emoluments or perquisites for the performance of any service in the temple, he shall be punished with simple imprisonment for a term which may extend to three months or with fine which may extend to three hundred rupees or with both.

(3) Whoever contravenes the provisions of Sec.5 shall be punished with simple imprisonment for a term which may extend to three months or with fine which may extend to three hundred rupees or with both.

7. Enquiry and trial.— No offence punishable under this Act shall be inquired into or tried by any Court inferior to that of a Presidency Magistrate or a Magistrate of the First or Second Class.

THE TAMIL NADU ANIMALS AND BIRDS SACRIFICES PROHIBITION(REPEAL) ACT, 2004.

*[Received the assent of the Governor on the 5th August, 2004
Published in Tamil Nadu Government gazette, Extraordinary,
Part IV, Section 2, Page 75, dated 5th August, 2004].*

Act No. 20 of 2004.

An Act to repeal the Tamil Nadu Animals and Birds Sacrifices Prohibition Act, 1950.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fifth year of the Republic of India as follows:—

1. Short title and commencement:— (1) This Act may be called THE TAMIL NADU ANIMALS AND BIRDS SACRIFICES PROHIBITION (REPEAL) ACT, 2004.

2. Repeal:— The Tamil Nadu Animals and Birds Sacrifices Prohibition Act, 1950 (Tamil Nadu Act XXXII of 1950) (hereinafter referred to as the Principal Act), is hereby replaced.

3. Abatement of action taken and of legal proceedings:— All actions taken under the Principal Act and all proceedings thereunder pending immediately before the 20th day of February, 2004, before any Court or authority shall abate.

4. Repeal and saving:— (1) The Tamil Nadu Animals and Birds Sacrifices Prohibition (Repeal) Ordinance, 2004 (Tamil Nadu Ordinance 2 of 2004) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

TAMIL NADU PROHIBITION OF RITUAL AND PRACTICE OF BURYING ALIVE OF A PERSON ACT, 2002

ACT No.44 of 2002.

An Act to prohibit the ritual and practice of burying alive of a person in the State of Tamil Nadu

Whereas the act of burying alive of a person in the place of worship or in its precincts in the State of Tamil Nadu endangers the human life and personal safety of others;

And Whereas it is expedient to prohibit such act of burying alive of a person;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the “TAMIL NADU PROHIBITION OF RITUAL AND PRACTICE OF BURYING ALIVE OF A PERSON ACT, 2002.”

(2) it shall come into force at once.

2. Definitions.-- In this Act, unless the context otherwise requires,--

(a) "bury" means and includes to cover out of sight, hide or conceal, in or under the ground, a person of any age, even momentarily.

(b) "place of worship" includes a place by whatever name known and used as a place of prayer or worship and dedicated to or for the benefit of, or used by, any religion, community or any section thereof, as a place of prayer or religious worship.

(c) "precincts" in relation to place of worship includes all lands and buildings near any place of worship whether belonging to the place of worship or not, which are ordinarily used for purposes connected with the worship whether conducted inside or outside such place of worship and in particular the backyard and front yard of such place of worship by whatever name called.

3. Burying alive of person prohibited.-- No person shall,--

(1) bury a person alive;

(2) allow himself to be buried alive;

in any place of worship or its precincts as a ritual or practice for the purpose of, or with the intention of, propitiating any deity or otherwise.

4. Officiating etc., of burying alive of person prohibited.-- No person shall,--

(a) officiate or offer to officiate at; or

(b) perform or offer to perform; or

(c) serve, assist or participate or offer to serve, assist or participate in;

burying alive of a person as a ritual or practice in any place of worship or its precincts for the purpose of, or with the intention of, propitiating any deity or otherwise.

5. Places not to be allowed or to be used for burying alive of person.-- No person shall knowingly allow the burying alive of a person as a ritual or practice in any place which,--

(a) is situated in any place of worship or its precincts; and

(b) is in his possession or under his control.

6. Penalty.-- Whoever contravenes the provisions of Sections 3, 4 or 5 shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.

7. Abetment of acts prohibited under Sections 3, 4 or 5.-- Whoever abets the commission of the acts prohibited under Sections 3, 4 or 5 shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.

8. Attempt to commit the acts prohibited under Sections 3, 4 or 5.-- Whoever attempts to commit the acts prohibited under Sections 3, 4 or 5 shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.

9. Operation of other laws not affected.-- The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

10. Power to make rules.-- (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made under this Act shall as soon as possible after it is made be placed on the table of the Legislative Assembly and if before the expiry of the session in which it is so

placed or the next session, the Assembly makes any modification in any such rule or the Assembly decides that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**TAMIL NADU (TRANSFERRED TERRITORY) INCORPORATED
AND UNINCORPORATED DEVASWOMS ACT, 1959.**

[TAMIL NADU ACT 30 OF 1959.]

(Received the assent of the Governor on the 19th February, 1964 and published in the Fort St. George Gazette dated 2-3-1960)

An Act to amend and consolidate the law relating to the administration, supervision and control of incorporated and unincorporated Devaswoms in the transferred territory.

Whereas it is expedient to amend and consolidate the law relating to the administration, supervision, and control of incorporated and unincorporated Devaswoms in the transferred territory; Be it enacted in the Tenth Year of the Republic of India as follows:

1. Short title, extent and commencement.— (1) This Act may be called THE TAMIL NADU (TRANSFERRED TERRITORY) INCORPORATED AND UNINCORPORATED DEVASWOMS ACT, 1959.

(2) It extends to the whole of the transferred territory.

(3) It shall come into force on such date as the Government may, by notification appoint.

2. Definition.— In this Act, unless the context otherwise requires:

(i) “Board” means the Devaswom Board constituted under Sec.4;

(ii) “Commissioner”, “Deputy Commissioner” and “Assistant Commissioner” means the Commissioner, Deputy Commissioner and Assistant Commissioner respectively appointed under Sec.9 of the Madras Hindu Religious and Charitable Endowments Act, 1959 (Madras Act 22 of 1959).

(iii) “Hindu Religious Endowment” means all property belonging to or given or endowed for the support of temples; or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts of property made as personal gifts to archaka, service-holder or other employee of a religious institution.

(iv) “incorporated Devaswom” means the Devaswoms mentioned in Schedule I;

(v) “member” includes the President;

(vi) “person interested” includes, in the case of an incorporated or unincorporated Devaswom, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat;

(vii) the expression “Ruler” shall have the same meaning as in clause 22 of Article 366 of the Constitution;

(viii) “transferred territory” means the Kanyakumari district and the Shencottah taluk of the Tirunelveli district;

(ix) "unincorporated Devaswoms" means the Devaswoms mentioned in Schedule II.

3. Vesting of administration in Board.- The administration of the incorporated and unincorporated Devaswoms and all their properties and funds as well as the Devaswom Fund constituted under Section 19, and the Devaswoms Surplus Fund specified in Section 20, shall vest in the Board.

4. Constitution of the Board.- (1) The Board shall consist of the President and two other members. The President and one member shall be nominated by the Government and the other member shall be nominated by the Ruler of Travancore,

(2) The Assistant Commissioner, Kanyakumari, shall be the Secretary to the Board.

(3) The Board shall be a body corporate having perpetual succession and a common seal with power to hold and acquire properties for and on behalf of the incorporated and unincorporated Devaswoms under the management of the Board.

(4) The Board shall by its name sue and be sued and the President of the Board shall represent the Board in such suits.

5. Qualification for membership in the Board.- A person shall not be qualified for nomination as a member of the Board unless he is a permanent resident of the transferred territory and professes the Hindu religion and has attained thirty-five years' of age.

6. Disqualification for membership.- No person shall be eligible for nomination as a member of the Board if he-

(i) is of unsound mind, or is suffering from mental defect or infirmity, which would render him unfit to perform the functions and discharge the duties of a member of the Board; or

(ii) is an undischarged insolvent; or

(iii) is an office-holder or a servant of Government, a local authority, the Board, or an incorporated Devaswom, or unincorporated Devaswom or the trustee of a Hindu Religious Endowment; or

(iv) is interested in a subsisting contract for making any supplies to or executing any work on behalf of any incorporated or unincorporated Devaswom; or

(v) has been sentenced by a Criminal Court for any offence involving moral turpitude such sentences not having been reversed or the offence pardoned.

7. Action in cases of disqualification.- (1) If a person nominated as a member of the Board is or subsequently becomes subject to any of the disqualifications specified in Section 6, or ceases to profess the Hindu religion and is declared by a Court to be under such disqualification as hereinafter provided, he shall cease to be a member.

(2) Any person interested may apply to the District Court, Nagercoil, for an order that a member of the Board was or has been subsequently become subject to any of the disqualifications specified in Section 6 or has ceased to profess the Hindu religion and the Court may, after making such enquiry as it deems fit, by order determine whether or not such member is disqualified.

(3) An appeal shall lie to the High Court against an order under Sub-section (2).

(4) Until an application has been made under Sub-section (2) and final orders are passed thereon, the member who is alleged to be subject to a disqualification shall be entitled to act as if he were not disqualified.

8. Removal of nominated member.- The Government may *suo motu* or on application from a person professing the Hindu religion, by order, remove from office a nominated member of the Board on the ground of misbehaviour or incapacity;

Provided that no such order shall be passed unless such member has had a reasonable opportunity of making his representations against such removal.

Explanation:- If a member does any act which is intended or is likely to endanger communal harmony or which tends to promote feelings of enmity or hatred between different classes of citizens of India in the State of Madras, he shall for the purpose of this section, be deemed to be guilty of misbehaviour.

9. Term of the Board.- (1) A nominated member of the Board shall hold office for a period of three years from the date of his nomination and shall be eligible for renomination.

(2) A nominated member of the Board may, by writing under his hand addressed to the Government, resign his membership, but he shall continue in office until the nomination of his successor.

(3) A member of the Board shall, on the expiration of his term of office, continue in office until the vacancy caused by the expiration of his term of office is filled up.

(4) When the office of a nominated member of the Board becomes vacant by resignation, removal or otherwise, new members shall be nominated in his place in accordance with the provisions of this Act and such member shall hold office as long only as the member in whose place he is nominated would have held office, had such vacancy not occurred.

10. Office and meetings of the Board.- (1) The Board shall, for the transaction of its business, have an office at Suchindram to which all communications and notices to the Board may be addressed.

(2) The meetings of the Board shall be presided over by the President.

(3) No business shall be transacted at any meeting unless two members are present.

(4) In case of difference of opinion among the members the question before the Board shall be decided by a majority of votes of the members present and where the votes are equally divided, the matter shall be referred to the Commissioner whose decision shall be final.

11. President to convene meetings.- (1) The President shall be the convenor of the meetings of the Board.

(2) The President shall keep the minutes of the proceedings of each meeting in a book to be kept for the purpose which shall be signed by the President and the members present at such meeting.

12. Vesting of jurisdiction in the Board.- (1) All rights, authority and jurisdiction belonging to or exercised by the Travancore Devaswom Board immediately before the 1st day of November, 1956 in respect of Devaswoms shall vest in and be exercised by the Board in accordance with the provisions of this Act.

(2) The Board shall exercise all powers of direction, control and supervision over the incorporated and unincorporated Devaswoms under the jurisdiction subject to general powers of superintendence, control and revision by the Commissioner and such superintendence and control by the commissioner shall include the power to issue the directions which may be deemed necessary to ensure that the Devaswoms are properly administered.

13. Revision by the Commissioner.- (1) The Commissioner may call for and examine the record of the Board in respect of any proceedings to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein. If the commissioner is of the opinion that the decision or order requires revision, he may remit the matter together with his observations in regard thereto to the Board for reconsideration of the decision or order and report to the Commissioner within such period as may be specified by him.

(2) On receipt of, and after considering, such report, it shall be open to the Commissioner to modify, annual or reverse the original decision or order, or the decision or order as revised after reconsideration under sub-section (1), as the case may be.

(3) If the report is not received by the Commissioner within the time specified or such further time as may be granted by him, the Commissioner may modify, annul or reverse the decision or order of the Board.

(4) The Commissioner shall not pass any order under this section prejudicial to any party unless such party has had a reasonable opportunity of making his representations.

(5) The commissioner may, pending the exercise of his powers under this section, stay the execution of any decision or order of the Board.

14. Delegation of powers by Commissioner.- The Commissioner may delegate his powers under this Act except the powers under Section 12 or Section 13 to the Deputy Commissioner having jurisdiction over the transferred territory.

15. Revision by the Government.- (1) The Government may call for and examine the record of the Commissioner or the Board in respect of any proceeding to satisfy themselves as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein; and if, in any case, it appears to the government that any such decision or order should be modified, annulled, reversed, or remitted for reconsideration, they may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order pending the exercise of their powers under sub-section (1) in respect thereof.

16. Supervision and control by the Board.- The Board shall, subject to the provisions of this Act, exercise supervision and control over the acts and proceedings of all officers and servants of the Board.

17. Power to make by-laws.- The Board may, subject to such conditions as may be prescribed, make by-laws not inconsistent with this Act or the rules made thereunder as to –

- (a) the division of duties among the members of the Board;
- (b) the procedure and conduct of business at the meetings of the Board;
- (c) the books, registers and accounts to be kept at the office of the Board;
- (d) the form and manner of applications to the Board;
- (e) the security, if any, to be furnished by the officers and servants of the Board; and
- (f) generally for the conduct of all proceedings and business of the Board under the provisions of this Act.

18. Maintenance of incorporated Devaswoms out of Devaswom Fund.- The Board shall out of the Devaswom Fund constituted under Section 19, maintain the incorporated Devaswoms, keep in a state of good repair the temples, buildings and other appurtenances thereto, administer the said Devaswoms in accordance with the recognized usages, make contributions to other Devaswoms in the transferred territory and meet the expenditure for the customary religious ceremonies and may provide for the educational uplift, social and cultural advancement and economic betterment of the Hindu Community.

19. The Devaswom Fund.- The Devaswom Fund constituted for the incorporated Devaswoms shall consist of –

(i) the sum of thirteen lakhs and fifty thousand rupees mentioned in Article 290-A of the Constitution of India as payable to the Devaswom Fund State of Tamil Nadu and the share of the Devaswom Surplus Fund mentioned in Sub-section (2) of Section 112 of the State Reorganisation Act, 1956 (Central Act 37 of 1956), as transferred to the said Devaswom Fund.

(ii) the moneys realized from time-to-time by the sale of movable properties belonging to the said Devaswoms;

(iii) all voluntary contributions and offerings made by devotees;

(iv) profits and interests received from investments of funds belonging to the said Devaswoms; and

(v) all other moneys belonging to, or other income received by, the said Devaswoms.

20. Devaswom Surplus Fund and its administration.- The unspent balance of each year out of the Devaswom Fund constituted under section 19 or such portion of it, as may be determined by the Board, and approved by the Commissioner shall be added on to the Devaswom Surplus Fund. The Devaswom Surplus Fund shall be administered, subject to the direction and control of the Commissioner.

21. Devaswom properties.- Immovable properties entered or classed in the revenue records as Devaswom Vaga or Devaswom poromboke and such other Padaragvaga lands as are in the possession or enjoyment of the incorporated Devaswoms after the 30th Meenam 1907, corresponding to the 12th April, 1922 shall be dealt with as Devaswom properties. The provisions of the Travancore-Cochin Land Conservancy Act, 1961 (Travancore-Cochin Act XIX of 1951), shall be applicable to Devaswom lands as in the case of Government lands.

22. Board's control over Karanma services.- The Board shall have absolute control over the holders of all Karanma service and also over all the properties, Thiruppuvarams and other emoluments attached thereto.

(2) Whenever it is reported that owing to incompetency, negligence or other cause, any Karanma service is not being regularly performed or that an alienation of Karanma service of the property, Thiruppuvaram or other emoluments attached thereto, has been effect by the Karanma holder or by any member or member of the Karanma family, the Board shall give due notice to the head of the family and the next senior member, and also to such other members of the Karanma family as the said Board may deem necessary and if after hearing their objection, if any, the Board is satisfied that there has been an alienation of the Karanma service or of the property or of thiruppuvaram or of the other emoluments attached thereto or that there has been a failure to perform the service properly or regularly, the Board may suspend, remove, determine, cancel or deal with in any other manner the Karanma right of the family to the service.

(3) All alienations of service Inam lands attached to specific services which have been or which may hereafter be made contrary to past usage shall be *null and void*. The Board may resume service Inam lands attached to specific services if such lands are alienated or if the holders of such lands make default in the performance of the services;

Provided that the Board may, in its, discretion, deal with such lands and the services connected therewith in any other manner it may deem fit.

(4) Any person deeming himself aggrieved by any decision passed under sub-section (2) or (3) may, within a period of one year from the date of such decision, institute in the Court within whose jurisdiction the property is situate a suit to establish the right which he claims in respect of the property.

Provided that subject to the result of the suit, if any, the decision of the Board passed under Sub-section (2) or (3) shall be final.

23. (1) Board to appoint officers.- The Board may appoint such number of officers or servants as may be determined from time-to-time by the Commissioner:

Provided that such officers or servants shall be persons professing the Hindu religion.

(2) The Board may, in its discretion, appoint such of the officers and servants as were serving in connection with the incorporated and unincorporated Devaswoms immediately before the date of commencement of this Act, to any office to which they may be deemed qualified:

Provided that the conditions of service applicable immediately before the date of commencement of this Act to the case of any officer or servant appointed as aforesaid shall not be varied to his disadvantage except with the previous approval of the Government.

(3) The officers and servants of the Board shall be under the Assistant Commissioner, Kanyakumari, subject to the supervision, direction and control of the Board.

(4) The Assistant Commissioner, Kanyakumari, shall be the Chief Executive Officer of the Board.

(5) The expenditure in connection with the officers and servants of the Board shall be met out of the Devaswom Fund constituted under Section 19.

24. Unincorporated Devaswoms.- The properties and Funds of the unincorporated Devaswoms shall be kept distinct and separate as heretofore and shall not be utilized except for the purposes of those Devaswoms.

25. Management of Devaswoms.- Subject to the provisions of this Act and the rules made thereunder the Board shall manage the properties and affairs of the Devaswoms, both incorporated and unincorporated as heretofore, and arrange for the conduct of the daily worship and ceremonies and of the festivals in every temple according to its usage.

26. Audit.- (1) The Board shall keep regular accounts of all receipts and disbursements in respect of the institutions under its administration.

(2) The accounts of the Board shall be subject to audit annually by an auditor appointed by the Government. The audit report shall be submitted to the Government through the Commissioner.

(3) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the Board or to the institutions under its management or of loss or waste of money or other property thereof caused by neglect or misconduct of the Board or any member thereof.

(4) The auditor shall also report on any other matter relating to the accounts as may be prescribed or on which the Government may require him to report.

(5) The Government shall send to the Board a copy of every audit report and it shall be the duty of the Board to remedy any defects or irregularities pointed out by the auditor and report the same to the Government.

(6) If, on a consideration of the report of the auditor or otherwise, the Government is of the opinion that the Board or any member thereof was guilty of misappropriation or wilful waste of the funds of the institutions or of gross neglect resulting in a loss to the institutions under the management of the Board, the Government may, after giving notice to the Board or the member, as the case may be, to show cause why an order of surcharge should not be passed against the Board or the member, and after considering the explanation, if any, pass an order of surcharge against the Board or the member, as the case may be.

(7) The order of surcharge may be executed against the member or members concerned of the Board as if it were a personal decree passed against him or them by the Court having jurisdiction to pass a decree for the amount of surcharge.

(8) An order of surcharge under this section shall not bar a suit for accounts against the Board, or the member or members concerned, except in respect of the matter finally dealt with by such order.

(9) A copy of the audit report shall be supplied to any person who duly applies for the same.

27. Budget and Administration Report.- (1) The Board shall, before the end of December in each year, submit to the Commissioner a budget showing the probable receipts and disbursements during the following financial year. The budget shall contain provision for the dittam or scale of expenditure for the time being in force. The Commissioner may pass the budget making such alteration, omissions or additions in the budget as he may deem fit. No expenditure shall be incurred over and above the budget sanction without the previous sanction of the Commissioner. The Board shall also within 2 months of the commencement of each financial year submit to the Ruler of Travancore such number of copies of the budget so prepared as the Ruler may direct.

(2) The Board shall in each year prepare an annual administration report of the working of the Board during that year and shall within three months of the commencement of the next financial year, submit it to the Government through the Commissioner, and to the Ruler of Travancore.

28. Deposit and investment of funds.- Subject to the other provisions of this Act, the Board may invest or deposit the funds of the incorporated and unincorporated Devaswoms-

¹["(a) in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act II of 1934); or in any State Treasury; or in the Tamil Nadu State Co-operative Bank Limited; or in such Central District Co-operative Banks as have been approved by the Registrar of Co-operative Societies, Tamil Nadu, for the investment of the funds of Municipal Councils constituted under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920); or"]

Clause (a) of Principal Act

(a) in a scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), or in any State Treasury; or

(b) in Promissory Notes, Debentures, Stocks or other securities of the State Government or the Government of India; or

(c) in stocks or Debentures or shares in companies, the interest whereon shall have been guaranteed by the Government or the Government of India; or

(d) in immovable property.

29. Power to make rules.- (1) The Government may by notification make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) regulating the scale of expenditure of incorporated and unincorporated Devaswoms;

(c) regulating the maintenance and auditing of the accounts of incorporated and unincorporated Devaswoms;

1. Clauses (a) substituted by Act 27 of 1964.

(d) the submission of budgets, reports, accounts, returns or other information by the Board to the Government through the Commissioner;

(e) the method of recruitment and qualifications, the grant of salaries and allowances, the discipline and conduct of officers and servants of the Board and generally the condition of their service;

(f) the establishment of provident funds and the grant of pensions for the officers and servants of the Board;

(g) the manner of proof of the fact that a person professes Hindu Religion for the purposes of this Act.

(3) All rules made under this Act shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

30. Public officers to supply copies, etc.- All public officers having custody of any record, register, report or other document relating to incorporated and unincorporated Devaswoms or any movable or immovable property thereof shall furnish the same, or such copies of or extracts from the same, as may be required by the Commissioner, the Assistant Commissioner of the Board or any officer or servant of the Board authorized by the Board in this behalf.

31. Grant of copies.- The President of the Board may grant copies of proceedings or other records on payment of such fees and subject to such conditions as may be prescribed by the Commissioner.

32. Savings.- Nothing contained in this Act shall affect, or authorize any interference with, the rights and privileges specified in Schedule III to which the Ruler of Travancore is entitled by custom, established usage or otherwise.

33. Continuance of Legal Proceedings.- Any legal proceedings taken on behalf of or against any incorporated or unincorporated Devaswom may be continued by or against the Board. Any amount including costs, under any decree or order of Court obtained for or on behalf of any incorporated or unincorporated Devaswom shall be recoverable by the Board.

34. Suits.- No suit shall be instituted against the Board until the expiration of two months after a notice in writing has been delivered or left at the office of the Board, stating the cause of action, the relief sought, and the name and place or abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

35. Costs and expenses to be payable from Funds of Devaswoms.- All costs and expenses incurred in connection with legal proceedings in respect of any incorporated or unincorporated Devaswom to which the Board is a party shall be payable out of the Devaswom Funds or the funds of the unincorporated Devaswom concerned, as the case may be.

¹[35-A. Property of Board or of incorporated and unincorporated Devaswoms not to vest under the law of limitation after 1st April, 1960.- Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds administered by the Board or the property or funds of the incorporated and unincorporated Devaswoms, which had not vested in such person or his predecessor-in-title before the 1st April, 1960].

36. Power to amend, alter, or add to Schedule I.- The Government may, from time-to-time, by notification, amend, alter or add to Schedule I.

37. Members of the Board etc., to be deemed public servants.- The members of the Board and officers and servants of the Board and the auditor appointed under Sub-section (2) of Section 26 shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

38. Repeal.- (1) The Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950), is hereby repealed.

(2) Notwithstanding the repeal of the said Act, all rules made, orders passed, action taken or things done or deemed to be made, passed, taken or done in exercise of any power conferred by or under the said Act shall in so far as they are not inconsistent with this Act be deemed to have been made, passed, taken or done in exercise of the powers conferred by or under this Act and shall have effect accordingly.

SCHEDULE I

[See Section 2 (iv).]

LIST OF INCORPORATED DEVASWOMS

Group/Taluk	Number and name of Devaswom.		Major, Minor or Petty
(1) & (2)	(3)		(4)
Bootha	1	Bhoothapandy	Major
Pandy/Thovala	2	Azhaginambi	"
	3	Thiruvengkithapper	"
	4	Thiruppathisaram	"
	5	Thazhakudy	"
	6	Thovala	"
	7	Aruvamozy	"
	8	Darsonamcope	"
	9	Chiramatom	Minor
	10	Bhuthapandy Perumal	"
	11	Harihara Vinayagar	"
	12	Attinkarakrishnaswamy	"
	13	Madavilagam	"
	14	Jadayapuram	"
	15	Bhagavathy Kottaram	"
	16	Kadukkara	"
	17	Emperuman	"
	18	Mulayanalloor	"
	19	Sakalakala Marthanda Pillayar	"
	20	Arumanalloor	"
	21	Anthirapuram	"
	22	Umayeeswara Mudayanainar	"
	23	Kotheswaramudayaninar	"
	24	Azhagamannar	"

Group/Taluk	Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)	(3)	(4)
25	Thenpara Vinayagar	Minor
26	Thirvayar	"
27	Esathimangalam Perumal	"
28	Navalkkad Eluppavudaya Kantan Sastha	"
29	Udayamarthandeswarar	Petty
30	Earavai Vinayagar	"
31	Karumenikantan Sastha	"
32	Kozhunthadi Kantan Sastha	"
33	Meelakulathu Kantan Sastha	"
34	Aryankavu Kantan Sastha	"
35	Arasudaya Kantan Sastha	"
36	Edamala Valayyan	"
37	Nilappara Kantan Sastha	"
38	Kalumgumugathu Bhuthathan	"
39	Valia Yajaman	"
40	Anandhavalli Amman	"
41	Kottakara Kanthan Sastha	"
42	Chempoosy	"
43	Keruchipara Kantan Sastha	"
44	Chandana Nanga Amman	"
45	Nagaramman	"
46	Akathuru Vallayan	"
47	Kallyugathumeyyan.	"
48	Ananthapuram Bhuthathan	"
49	Arassadikantan	"
50	Annamalakantan	"
51	Aiyinimoottu Bhoothathan	Petty
52	Attor Kantan Sastha	"
53	Vidankar Vinayagar	"
54	Kulathumkara Kantan Sastha	"
55	Azhagadri Kantan Sastha	"
56	Annakkara Marthandeswaramudaya Nainar	"
57	Arasadi Kantan Sastha	"
58	Veerakerala Pillayar	"
59	Orana Kantan Sastha	"
60	Karumeni Kantan Sastha	"
61	Esanamatom Pillayar	"
62	Pulimugatu Kantan Sastha	"
63	Erukalam Kavudaya Kantan Sastha	"
64	Veeranarayanamangalam Neerkamudaya Kantan Sastha	"

Group/Taluk		Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)		(3)	(4)
	65	Irumudichozha Vinayagar	Petty
	66	Sooramuppidary Amman	"
Nagarcoil	67	Suchindrum	"
Agastheswaram	68	Kanyakumari	"
	69	Agastheswaram	"
	70	Marungoor	"
	71	Banamthitta	"
	72	Parakka	"
	73	Ezharam	"
	74	Vadiweeswaram	"
	75	Nagercoil	"
	76	Thaliyal	"
	77	Krishnancoil	"
	78	Perambalam	"
	79	Thekkehteruvu Kulasekhara Perumal	"
	80	Asramam krishnaswamy	"
	81	Mannoothi Nagamman	"
	82	Sarkaratheertha Viswanathar	Minor
	83	Panchalangapuram Krishnaswamy	"
	84	Vadaketheruvu Mahadevar	"
	85	Akkara Mahadever	"
	86	Kariamackazhwar	"
	87	Valampuri Vinayagar	"
	88	Arumuga pillaiyar	"
	89	Kottavila Sastha	"
	90	Edartheertha Perumal	"
	91	Melavathil Vinayagar	Minor
	92	Thiruvankita Vinnaperumal	"
	93	Brahmarakshasaperumal	"
	94	Apathukatha Kantan Sastha	"
	95	Periapandeeswaramudaya Nainar	"
	96	Kasi Viswanathar	"
	97	Alathamman	"
	98	Eraviputhur Eravi Vinayagar	"
	99	Vishnupuram Krishnaswamy	"
	100	Vannathamukulam Poosastha	"
	101	Kothichapillayagaram Perumal	"
	102	Kothichapillayagaram Sivan	"
	103	Thekkuman Sakshi Vinayagar	Petty
	104	Veeramarthanda Vinayagar	"
	105	Arasadi Vinayagar	"

Group/Taluk	Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)	(3)	(4)
	106 Kulasekara Vinayagar	Petty
	107 Karumkalai Amman	Petty
	108 Puthugramam Perumal	Minor
	109 Karuppukotta Kailasanather	"
	110 Puravassery Perumal	"
	111 Puravasery Sivan	"
	112 Arassady Krishnaswamy	"
	113 Poosastha Kandan Sastha	"
	114 Vasudevar Coil	"
	115 Kommandayamman	"
	116 Cholapuram	"
	117 Enakodi Kantan Sastha	Petty
	118 Peruvila	Minor
	119 Venbanoor	"
	120 Kattimancode	"
	121 Srimad Dwaraka	"
	122 Bramhasandhi Kanni Vinayagar	Petty
	123 Sannadhitheru Viswanathar	"
	124 Badrakali Thyagasoundari	"
	125 Keezhatheru Viswanathar	"
	126 Guhanadheeswarar	"
	127 Oormuppidari	"
	128 Baghavathymatom Baghavathy Vinayagar	"
	129 Mandaramuputhor Damodhara Vinayagar	"
	130 Maruthuvamala	"
	131 Alathu Badrakali	"
	132 Vazhiottakaran	Petty
	133 Elayanainar	"
	134 Koranadikorakkanathanar	"
	135 Marukathalakantan Sastha	"
	136 Valikoil Amman	"
	137 Koorudayakantan Sastha	"
	138 Chempakkanachi Amman	"
	139 Pachaperumal Sastha	"
	140 Theradi Esakki Amman	"
	141 Ootukuzhi Kannimar	"
	142 Butham Vanamgum Kantan Sastha	"
	143 Sthanu Vinayagar	"
	144 Velikanta Mahadevar	"
	145 Esakki Amman	"
	146 Annamalakantan Sastha	"

Group/Taluk		Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)		(3)	(4)
Padmana Bapuram/Kalkulam	147	Eravikulam	Petty
	148	Tharamanikantan	Petty
	149	Rajakkamangalam Alathemman	"
	150	Kannakurchi Sastha	"
	151	Puthukulam Sastha	"
	152	Grama Vinayagar	"
	153	Abhimanamkatha Vinayagar	"
	154	Thazhamkulam Vinayagar	"
	155	Esakki Amman	"
	156	Bhuthathan	"
	157	Karpaka Vinayagar	"
	158	Putheir Eravi Vinayagar	"
	159	Velikkara	"
	[159-A	Anakkanai Vinayagar]	"
	160	Thirunandikkara	Major
	161	Ponmana	"
	162	Manalikkara	"
	163	Ramaswamycoil	"
	164	Nilakantaswamycoil	Major
	165	Thevarakottu	"
	166	Alempara	"
	167	Melamcode	"
	168	Velimala	"
	169	Keralapuram	"
	170	Thiruvthamcode	"
	171	Alwarcoil	"
	172	Marthandeswaram	Major
	173	Mondakad	"
	174	Valvachagoshtam	"
	175	Radhakrishnancoil	"
	176	Bhadrakali Amman	Minor
	177	Esakki Amman	"
	178	Perumalcoil	"
	179	Sorimuthayyan	"
	180	Thampurancoil	"
	181	Koonamkani	"
	182	Kodiyur	"
	183	Kuzhikkode	"
	184	Venugopalakrishnacoil	"
	185	Palakozhi	"
	186	Anakkara Sastha	"

Group/Taluk	Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)	(3)	(4)
	187 Madavilagam	Minor
	188 Sivagiri	Minor
	189 Kailasathu Mahadevar	"
	190 Vellapillayar	"
	191 Chunakara Sastha	"
	192 Kaverikad Sastha	"
	193 Adavallelha Nainar	"
	194 Mainindra Vinayagar	"
	195 Manavila	"
	196 Karakanteswaram	"
	197 Cheramangalam	"
	198 Thalakkulam	"
	199 Thrippaniyode	"
	200 Karingal	"
	201 Thikkanamcode	"
	202 Pannipagom	"
	203 Kattala	"
	204 Ethavila Sastha	"
	205 Poomala	"
	206 Kaithappuram Sastha	"
	207 Edatheri Sastha	"
	208 Thathancode Sastha	Petty
	209 Manamcode Sastha	"
	210 Kottaramatom Pillayar	"
	211 Shumuga Vilasam Pillayar	"
	212 Theradi Buthathan	"
	213 Madan Thampuram	Petty
	214 Sannadhi Pillayar	"
	215 Uchi Pillayar	"
	216 Azhagia Pillayar	"
	217 Vilavoor Elangam	"
	218 Maravoor Konam Sastha	"
	219 Kakkotta Thala	"
	220 Puliyara Kantan	"
	221 Alathamman	"
	222 Chingankavu	"
	223 Karayakulam	"
	224 Kootumangalam	"
	225 Chirakonam Sastha	"
	226 Kulasekara Pillayar	"
	227 Bhootha Pillayar	"

Group/Taluk	Number and name of Devaswom.		Major, Minor or Petty
(1) & (2)	(3)		(4)
	228	Chemala	Petty
	229	Thumbattu Sastha	Petty
	230	Nandimangalam	"
	231	Atchaleeswaram	"
	232	Undicha Mahadevar	"
	233	Koodathookki Sastha	"
	234	Edampidicha Mahadevar	"
	235	Anakkara Sastha	"
	236	Saralkala Sastha	"
	237	Chunakkara Sastha	"
	238	Maramvilakki Sastha	"
	239	Pulimugathu Sastha	"
	240	Andor Sastha	"
	241	Pullayil Sastha	"
	242	Kandanesseri Bhagavathy	"
	243	Nangoor Krishnaswamy	"
	244	Mekkoda Kottavila Sastha	"
	245	Panniyottu Thamburan	"
	246	Panniyottu Udayar	"
	247	Gnanakuzhy Sastha	"
	248	Kollenvilla Sastha	"
	249	Kundala Sastha	"
	250	Chempidari Amman	"
	251	Puliyoor Kunuchi Sivan	"
	252	Vellimala	"
	253	Padmanabhan Thoppu	"
	254	Pammathu Moola	Petty
	255	Munpala Sastha	"
	256	Ponnayiramudayar	"
	257	Kingini Sastha	"
	258	Pallikkara Sastha	"
	259	Ethankadu	"
	260	Ardhakantan	"
	261	Apathukathar	"
	262	Karipalli	"
	263	Nethrakkoil	"
	264	Erumavila	"
	265	Alampara	"
	266	Kalletivila	"
	267	Kotheswaram	"
	268	Kantan Sastha	"

Group/Taluk		Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)		(3)	(4)
	269	Bhoothamuttam	Petty
	270	Manalaikkara Elangom	Petty
	271	Parayadi Sastha	"
	272	Kulangara Sastha	"
	273	Ariyappan	"
	274	Panchakanyaka	"
Kuzhithura /	275	Thiruvattar	"
Kalkulam	276	Thirpparappu	"
Vilavancode	277	Kūzhithura	"
	278	Thirumala	"
	279	Parthivapuram	"
	280	Nattalam Vishnu	"
	281	Nattalam Sivan	"
	282	Thirvikramapuram	"
	283	Thaliyal	Minor
	284	Thirumurambo	"
Vilavancode	[285	Payanam]	"
	[286	Thipramala]	"
	287	Kulasekaram	"
	288	Chamundy Amman	"
	289	Keleswaram	"
	290	Kannacode	"
	291	Kulapuram	"
	292	Palugal	"
	293	Cheruvallor	"
[Kalkulam	294	Arivukkara Krishnaswamy]	"
[Kalkulam	295	Puthiakavu]	Minor
	296	Piracode	"
[Kalkulam	297	Aramandam]	"
	298	Methu Kūmmal	"
	299	Mannasekaram	"
	300	Thrippiamcode	"
	301	Kirothoor	"
	302	Kamukinthottam	"
	303	Chitharal	"
	304	Karippara	"
	305	Palliyara	"
	306	Edakode	"
	307	Aducode	"
	308	Puilyoorsala	"
	309	Kamukannoor	"

Group/Taluk	Number and name of Devaswom.		Major, Minor or Petty
(1) & (2)	(3)	(4)	(5)
	310	Nelveli	Minor
	311	Mangode	Minor
[Kalkulam	312	Bakthapriam	Petty
	313	Chemmaruthankavu	"
[Kalkulam	314	Muttathura Mahadevar	"
"	315	Muthalar Kanthan Sastha	"
"	316	Madayarathala Bhagavathy	"
"	317	Thenkara Kanthan Sastha	"
"	318	Anayadi Sastha	"
"	319	Kottavila	"
"	320	Nattarathottam	"
"	321	Ramanallore	"
"	322	Chettuthura	"
"	323	Vazhvil Pillayar	"
"	324	Athiserry	"
"	325	Jagadheeswaram	"
"	326	Kunnel	"
"	327	Attoo	"
[Kalkulam	328	Cherukole]	"
	329	Nankoikal	"
	330	Kavinmools	"
	331	Punnakuzhi	"
	332	Mulamoodu	"
	333	Manakampara	"
	334	Pulippara Sastha	"
	335	Krishnaswamy	"
	336	Erothukoikal	Petty
	337	Kuranganvila	"
	338	Somasingalam	"
	339	Cherumaruthankavu	"
	340	Chemmuthal	"
	341	Mulagumoodu	"
	342	Sivappada	"
	343	Kariyodu	"
	344	Pottakad	"
	345	Aluvila	"
	346	Kunnuvila	"
	347	Kinathuvila	"
	348	Kanjiramathara	"
	349	Pratteeswaram	"
	350	Kumpalamkavu	"

Group/Taluk	Number and name of Devaswom.		Major, Minor or Petty
(1) & (2)	(3)		(4)
	351	Vegampady	Petty
	352	Kuruthivila	Petty
	353	Puliyamthara	"
	354	Sambradu	"
	355	Kuthirode	"
	356	Kurchivila	"
	357	Vanniyoora Mala	"
	358	Kirathoor	"
	359	Thittachal	"
	360	Michakom	"
	361	Kuracode	"
	362	Achalipuram	"
	363	Uchimala	"
	364	Mudyanvila	"
	365	Konarcoil	"
	366	Cheruvalloor Krishnan	"
	367	Cheruvalloor Sastha Dewaswaram	"
[Kuzhithalai Vilavancode	367-A	Dewaswara	Petty]
	368	Kasba Kulasekharanathaswamy	Major
Shencottah/ Shencottah	369	Azhagiaanavala Perumal	"
	370	Puliyara	"
	371	Elathoor Madhunathaswamy	"
	372	Ayikudy Subramaniaswamy	"
	373	Kilankad Jamadhagneeswaraswamy	"
	374	Sambavarvadekara Sree Moolanathaswamy	"
	375	Arya Vinayagar	Major
	376	Krishnaswamy	"
	377	Suruki Ambalam	"
	378	Nataraja Perumal	"
	379	Kuttala Vinayagar	"
	380	Kalakanteswaram	"
	381	Thiruvenkita Venniperumal	"
	382	Krishnaswamy	"
	383	Arasalwar	"
	384	Pavizhakothayyanar	"
	385	Vedhanarayana Perumal	"
	386	Sundararaja Perumal	"
	387	Kulasekhara Vinayagar	"
	388	Nithyakalyani Ammancoil	"
	389	Chekkadi Vinayagar	"

Group/Taluk	Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)	(3)	(4)
390	Muppidari Amman	Major
391	Nalledampilla Ayyanar	Major
392	Mahattu Bhuthathan	"
393	Kulasekharanagamman	"
394	Theradimadamman	"
395	Soolathuvamdayar	"
396	Kuttala Vinayagar	"
397	Nalloor Nangai Amman	"
398	Pandanadheswarar	"
399	Karkudi Veerakerala Vinyagar	"
400	Chelladam Pilla Ayyanar	"
401	Pattu Bhuthathan	"
402	Neelli Amman	"
403	Nilakulathayyanar	"
404	Thazhakal Ayyanar	"
405	Veerakerala Vinayagar	"
406	Adhisooru Vinayagar	"
407	Thadimadayar Sastha	"
408	Thoottachi Ayyanar	"
409	Madayaudayar Mani Kantan Sastha	"
410	Muppidari Amman	"
411	Anchumuthayyanar	"
412	Kuravan Patayyanar	"
413	Adikantayyanar	"
414	Ulkottayyanar	"
415	Manamuthayyanar	"
416	Arayankavu Surukambalam	Major
417	Marthanda Vinayagar	"
418	Adheenamazhaki Ayyanar	"
419	Parthimga Vinayagar	"
420	Ninaithathu Muditha Vnayagar	"
421	Petchi Amman	"
422	Sudalamadan	"
423	Gopuramudayar	"
424	Vazhivettakaram	"
425	Adaikalamkatha Ayyanar	"
426	Sankara Vinayagar	"
427	Payikovil	"
428	Palavoodapar	"
429	Chundakattu Vinayagar	"
430	Lakshmi Narayana Perumal	"

Group/Taluk	Number and name of Devaswom.	Major, Minor or Petty
(1) & (2)	(3)	(4)
431	Azhagianachi Amman	Major
432	Panayadian Sastha	Major
433	Chempaka Vinayagar	"
434	Piramalasoodum Perumal	"
435	Padukula Sastha	"
436	Muppidari Amman	"
437	Karukanni Amman	"
438	Mada Oodayar	"
439	Oolakamman	"
440	Marathanda Vinayagar	"
441	Chockalingaswamy	"
442	Gangaikkuvazhthamman	"
443	Arasadi Vinayagar	"
444	Theradi Vinayagar	"
445	Muppidari Amman	"
446	Nallamankar Vinayagar	"
447	Palavoodayar Sastha	"
448	Silayeduthar Sastha	"
449	Therveethi Vinayagar	"
450	Sreeneelkanti Amman	"
451	Sila Pillayar	"
452	Dhurgai Amman	"
453	Bhadrakali Amman	"
454	Madaswami	"
[455	Manhamuthi Ayyanar	Petty]

SCHEDULE II**[See section 2 (ix)]****LIST OF UNINCORPORATED DEVASWOMS**

Serial number and name of group.	Name of Devaswom
(1) (2)	
1 Bhoothapandy Group	1 Ethiravally Chozhavinayakar, Thazhakudy
	2 Thazhayil Kantan Sastha
	3 Kakkum Vinayagar
	4 Kannimoolavigneswarar
	5 Bheemanagari Ethiravally Chozhavinayagar
	6 Thrikkaliyanam Fund in the Thazhakudy Devaswom
2 Nagarcoil Group	7 Marukathala Kantan Sastha Devaswom
	8 Thanuvalingaswamy Devaswom
	9 Kalkonda Vinayagar Devaswom

3 Padhmanabhapuram Group	10 Kappiyara Mahadevar Devaswom
	11 Maravoor Kantan Sastha
4 Kuzhithura Group	12 Kotheswaram Devaswom
	13 Ashtami Sadya Endowment Fund in Major Thirumala Devaswom
5 Shencottah Group	14 Aykudy Subramanyaswamy Devaswom
	15 Elathoor Sundararaja Perumal
	16 Puliyara Arya Vinayakar
	17 Adheenam Kathawar
	18 Azhakinachi Amman

SCHEDULE III

(See section 32)

I. Kanyakumari Temple-

1. Appointment of melsanthi.
2. Vazhivadu in connection with His Highness's birthday and Mahanavami in Navarathri.
3. Offering of Kanikka and presents to diety in connection with Highness's visit to Kanyakumari temple.
4. Payment of monthly Kanikka.
5. Daily vazhivadu on behalf of Her Highness the Maharani.

II. Suchindram temple-

1. Vazhivadu in connection with His Highness's Birthday.
2. Kanikka and offerings in connection with His Highness's visit to the temple.
3. Payment of monthly kanikka,
4. Intimation to the Devaswom Commissioner of the date and time for the commencement of the temple festival and chariot procession in Margali and Chithirai,
5. Offerings of Gold sarapalli chain, gold crescent and silk, in connection with the chariot procession during the Margali festival and also nivedyam of plantains on the occasion.
6. Intimation to His Highness by the Devaswom authorities, of the time at which the chariot comes to a stop after the chariot procession.
7. Pooja, prayers, vazhivadus, etc., during Sivarathri.

III. Thiruvattar Temple-

1. Appointment of Perianambi and other employees.
2. Vazhivadu and Pushpanjali in connection with His Highness's birthday.
3. Supply of silk to the devaswom in connection with Perinthiramruthu Pooja in the temple for offering to the deity, on payment of price therefor.
4. Sending of Amunthuruthi Potti to the temple as representative of His Highness on the occasion of the festivals in the temple.

IV. Mandakkadu temple-

Presentation of silk to the temple and conduct of Kalabhom Vazhivadu in connection with the Kadai festival in the month of Kumbam of every year.

V. Vadiveswaram temple-

1. Vazhivadu in connection with His Highness's birthday.
2. Aravana Payasam Vazhivadu in connection with Murajapam.

VI. Neelakantaswami and Anandavalli Amman temple, Kalkulam.-

1. Vazhivadu in connection with His Highness's birthday.
2. (Muzhukappu) Vazhivadu to Anandavalli Amman in connection with Navarathiri.
3. Offering of silk in connection with the annual festival.
4. Payment of monthly kanikka.

VII. Ramaswami temple, Kalkulam-

1. Vazhivadu in connection with His Highness's birthday.
2. Payment of monthly kanikka.

VIII. Kottaikkakom Kulasekharaperumal temple, Kalkulam-

- Vazhivadu in connection with His Highness's birthday.

IX. Valimalai temple-

1. Supply of silk (now cash equivalent given) for offering to deity in connection with the Thirukalyanam and Mahanavami festivals.
2. Payment of monthly kanikka.

X. Thiru Anantha Alwar temple, Nagarcoil-

- Kanikka and offering of silk during His Highness's visit to the temple.

XI. Thirumalai temple-

1. Vazhivadu during Murajapam in Thirumalai Devaswom.
2. Ghrita Dhara Vazhivadu during Sivarathiri. The Ghrita Dhara commences from Thirumalai temple and goes on every year by rotation in each of the following temples of (1) Thirumalai, (2) Thikkurichi, (3) Thirupparappu, (4) Thirunathikara, (5) Ponmana, (6) Panthipagom, (7) Kalkulam, (8) Melamkodu, (9) Thiruvitham-code, (10) Thiruvidacode, (11) Thrippathicode, (12) Nattalam, and in the 12th year, Ghrita Dhara, (kootu Dhara) is conducted in the Nattalam temple. A potti from Oormadam is sent from Palace to each temple to conduct this festival.

XII. Thiruparappu devaswom-

- Vazhivadu in connection with Thiruvathira in the month of Margali.

XIII. Thiruppathisaram Thiru Alwarswami temple-

1. Payment of monthly kanikka.
2. Vazhivadu in connection with His Highness's birthday.

XIV. Thovala Krishnaswami temple-

- Kanikka offered when His Highness visits the temple.

XV. Melamkode Amman temple-

- Kanikka offered when His Highness visits the temple.

XVI. Madhusudhana Perumal temple, Parakkal-

- Kanikka offered when His Highness visits the temple.
- Kanikka in connection with His Highness's birthday.

XVII. Peruvila Devaswom, Nagarcoil-

- Vazhivadu in connection with His Highness's birthday.

XVIII. Puravasseri Devaswom-

- Vazhivadu in connection with His Highness's birthday.

XIX. Kalkulam Balasubramaniaswami temple-

- Vazhivadu in connection with His Highness's birthday.

XX. Navarathri Pooja (in place at Trivandrum)-

Every year, as per the date and time fixed by Palace, Saraswathi Amman from Padmanabhapuram Palace, Subramaniaswami from Velimalai and Munnoothi Nangai Amman from Suchindram are brought in procession to Trivandrum and after Pooja etc., in the Palace, they are taken back after Vijiyadasami. Necessary arrangements in this connection are being done through the Chief Secretary to Government and Devaswom Commissioner.

XXI. Nirai and Puthari in all temples of Nanjanad. Fixation of date for sowing seeds in the lands of the temple.

AMENDMENTS - PARTICULARS.

By G.O.No. 4525, Revenue dated 5th November, 1960. In the said Schedule.-

(1) after item 159, the following item shall be added namely:-

“Nagercoil Agasteeswaram 159-A Anakkar Vinayagar, Petty”;

(2) after item 367, the following item shall be added namely:-

“367-A Kuzhithurai Vilavancode 367-A Devaswom, Petty”;

(3) after item 454, the following shall be added as item 455 namely:-

“Shencottah Shencottah 455 Manhamuti Ayyanar, Petty”;

(4) in the entries on Column (2) against the following items, for “Kalkulam” “Vilavancode”:- Substituted.

285	Payanam,
286	Thipramala,
288	Chamundy Amman,
289	Kaleswaram; and

(5) in the entries in column (2) against the following items for “Vilavancode” “Kalkulam”:- Substituted.

294	Aruvikara Krishnaswamy,
295	Puthiakau,
297	Aramandam,
312	Bhakthapriam,
314	Muttathura Mahadevar,
315	Muthalar Kantan Sastha,
316	Madayarathala Bhagavathy,
317	Thenkara Kanthan Sastha,
318	Anayadi Sastha,
319	Kottavila,
320	Nattarathottam,
321	Ramanallore,
322	Chettuthura,
323	Vazhvil Pillaiyar,
324	Athiserry,
325	Jagadheeswaram,
326	Kunnel,
327	Attoor,
328	Cherukole

**RULES UNDER SEC. 29 (2) (g) OF THE TAMIL NADU
(TRANSFERRED TERRITORY) INCORPORATED AND
UNINCORPORATED DEVASWOMS ACT, 1959
(TAMIL NADU ACT 30 OF 1959)**

[G.O. No. 4279, Revenue dated 24th October, 1960.]

RULES.

1. These rules may be called "THE GRANT OF TRAVELLING AND HALTING ALLOWANCES TO THE MEMBERS OF THE DEVASWOM BOARD RULES".

2. These rules shall be deemed to have come into force on the 1st April, 1960.

3. The conditions for the payment of travelling allowance, daily allowance or mileage to the members of the Devaswom Board shall be the same as those laid down in Part III of the Tamil Nadu Manual of Special Pay and Allowances, Volume I, as applicable to the members of the first class Government Committees subject to the following:

If the members choose to travel by private car:

(i) between places connected by rail, their travelling allowance for such journeys should be limited to the amount they would be entitled to, had they performed the journey by rail;

(ii) between places not connected by rail but by a regular public motor transport, they should be allowed half the mileage prescribed; and,

(iii) between places which are connected neither by rail nor by public motor transport, the full mileage prescribed should be allowed. For the above purpose, Suchindram shall be the headquarters.

4. The Commissioner shall be the controlling and counter-signing authority in respect of the Travelling Allowance bills of the members of the Devaswom Board.

G.O. No. 2229, Revenue dated 24th May, 1961.

In their petitions, dated 15th November, 1960 and 12th December, 1960 the President and members of the Kanyakumari Devaswom Board have represented that the travelling and halting allowances allowed to them as per the rules under Sec.29 (2) (g) of the Tamil Nadu Act 30 of 1959 issued with G.O.P. No. 4279, Revenue, dated 24th October, 1960 are inadequate. They have requested that they may be paid a sum of Rs.250 per mensem each as fixed travelling and halting allowances. The Government has examined their request, which has been recommended by the Commissioner, Hindu Religious and Charitable Endowments and sanction a sum of Rs.200 (Rupees two hundred only) per mensem each to the President and members of the Kanyakumari Devaswom Board as fixed travelling-cum-halting allowance from the date the members of the Devaswom Board assumed charge.

2. The appended notification will be published in the Fort. St. George Gazette.

**APPENDIX
NOTIFICATION**

In exercise of the powers conferred by clause (g) of Sub-section (2) of Sec.29 of the Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959 (Tamil Nadu Act 30 of 1959), and in supersession of the rules published with Notification S.R.O. No. A 52 of 1960, on page 469 of Part V of the Fort St. George Gazette, dated the 9th November, 1960, the Governor of Tamil Nadu hereby makes the following rules:-

RULES.

1. These rules may be called THE GRANT OF TRAVELLING AND HALTING ALLOWANCE TO THE MEMBERS OF THE BOARD RULES, 1961.
2. These rules shall be deemed to have come into force on the 1st April, 1960.
3. The president and members of the Devaswom Board shall each be paid a sum of Rs.200 (Rupees two hundred only) as fixed travelling-cum-halting allowances for every month in which they tour for at least ten days.

MEMORANDUM-No. 64632-U/61 dated 17th July, 1961.

Rules under Section 29(g) Amendment.

In modification of the order in G.O. No. 2229, Revenue, dated 24th May, 1961, the Government sanction a sum Rs. 250 (Rupees two hundred and fifty only) per mensem to each of the President and Members of the Kanyakumari Devaswom Board as fixed travelling-cum-halting allowances.

2. The appended notification will be published in the Fort St. George Gazette.

APPENDIX**NOTIFICATION**

In exercise of the power conferred by clause (g) of Sub-section (2) of Section 29 of the Madras (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959 (Tamil Nadu Act 39 of 1959) the Governor of Madras hereby makes the following amendment to the rules published with Revenue Department notification S.R.O.No. A 599 of 1961 at pages 529-630 of Part V of the Fort, St. George Gazette, dated the 7th June, 1961:-

The amendment hereby made shall be deemed to have come into force on the 1st April, 1960.

AMENDMENT

In the said rules in rule 3 for the words, brackets and figures "Rs.200 (Rupees two hundred only)" the following words, brackets and figures shall be substituted, namely:-

"Rs.250 (Rupees two hundred and fifty only)."

G.O.No.2906, REVENUE, DATED 13TH JULY, 1961.

Rules under Sub-sec.(1) and clauses (b), (c), (e), and (h) of Sub-sec.(2) of Sec.29 read with Sec.17. The Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959:

1. The Board shall make bye-laws as required by Sec.17 of the Act and shall publish the same along with notice.-

- (1) in the language of the locality where the Devaswom Board is situated in one or more daily newspapers having circulation in that locality:

- (2) in the District Gazette of Kanyakumari and Tirunelveli districts and

- (3) by affixture on the notice board of the Devaswom Board.

The notice shall invite objections and suggestions and fix a time-limit within which they shall be sent to the Board.

2. The Board shall consider the objections and suggestions and if necessary modify the bye-laws. The bye-laws so modified shall be sent to the Commissioner, who shall forward the same to Government with his remarks. The Government shall have power to confirm or modify the bye-laws. The bye-laws so confirmed or modified shall be published in the manner prescribed above and shall be enforced from the date of publication in the District Gazette.

The above procedure shall be followed in respect of cancellation or alteration of any bye-law.

3. The ceremonies for which expenditure is incurred in Devaswoms, whether incorporated or unincorporated, shall be broadly classified as ordinary and extra-ordinary ceremonies, ordinary ceremonies being the routine daily and periodical ceremonies known as nitianidanam, masavishesham, attavisheshim and utsavoms and extraordinary ceremonies being special ceremonies conducted on particular occasions or for specific reasons.

4. All expenditure incurred on account of the above ceremonies shall be debited under two main heads, namely:-

(1) Akathepaditharam or ritual items like nivedyam, poojaha, etc., and (2) purathepaditharam or secular items like feasts, processions, etc.

5. Expenditure on account of all the ordinary ceremonies shall be governed and regulated by the parthivoo or sanctioned scale of expenditure of each devaswom. An attested or authorized copy of the pathivoo kanakku shall invariably be kept in every devaswom. If there is any institution whose pathivoo kanakku is not readily available in the institution itself, an attested copy thereof should be obtained from the Assistant Commissioner's office. The Assistant Commissioner should see that the pathivoo kanakkus of all Devaswoms, originals or at least authorized copies thereof, are kept in his office and that copies are supplied not only to Devaswoms where expenditure has to be incurred in conformity with the pathivoo but also to the controlling offices where the expenditure incurred is audited with reference to the pathivoos.

6. In the case of Devaswoms where revision in the existing pathivoo or in one or more items included in the pathivoo is found necessary for special reasons, the Assistant Commissioner shall bring the matter to the notice of the Commissioner through the Board and the revision of pathivoo shall be subject to the sanction of the Commissioner.

7. No item of expenditure not provided for in the pathivoo should be incurred without the special sanction of the Commissioner.- If, for the proper conduct of utsavoms, it is found necessary to appropriate the savings under certain items to meet the excess expenditure under certain other items or to effect modifications in pathivoos beyond the competence of the officers of the department, the Board will forward necessary proposals for the sanction of the Commissioner.

8. The Board shall maintain the several accounts referred to below and be responsible for the correct and proper maintenance of the same.

9. So far as receipts and expenditure pertaining to incorporated Devaswoms are concerned, the accounts and registers prescribed in Appendix I of these rules, shall be kept and maintained in all sub-group offices, as well as in the supervising and controlling offices and the Devaswom Accounts Office. The special instructions, if any, issued by the Board shall be subject to the approval of the Commissioner.

10. For the purpose of these rules, the offices of the Superintendents, the Office of the Devaswom Accounts Officer and the office of the Assistant Commissioner, Suchindram, will be treated as Controlling Offices.

11. In the case of unincorporated Devaswoms, the accounts and registers prescribed in Appendix I shall be kept and maintained in all Personal Deposits of Devaswoms, the Controlling Offices, and in the Devaswom Accounts Office. The Commissioner shall make such modifications in them, from time-to-time, as are found necessary.

12. So far as receipts and expenditure relating to maramath works are concerned, the rules in the Public Works Account Codes and the register and accounts mentioned therein, will be maintained in the offices of the Maramath Department, and also in the office of the Devaswom Accounts Officer (except those relating to Public Works). Any other register of accounts found necessary for the purposes of devaswom maramath works also be prescribed from time-to-time by the Commissioner and they shall also be duly maintained in the office of the Maramath Department and in the Devaswom Accounts Office.

13. For the proper maintenance of the accounts of expenditure under Salaries, Establishment, Travelling Allowance, Contingencies and other charges relating to the various offices under the Board, the registers and accounts prescribed by the Tamil Nadu Financial Code and the Tamil Nadu Accounts Code, shall be maintained in the various offices.

14. The Board shall arrange to get the budget from the incorporated Devaswoms showing the receipts and expenditure of each such Devaswom and consolidate them into a Budget showing the credits and charges on the devaswom fund. Such budgets shall be obtained from the respective Devaswoms on or before 10th November in each year and submitted to the Commissioner for approval before the end of December in each year. A copy of the sanctioned budget shall be submitted to the Government by the Commissioner.

15. The Board shall submit [to the Government through the Commissioner] before the 15th May in each year as on the last day of 31st March of the previous year.

(a) a statement of the assets under the following heads:-

(i) cash on hand; (ii) cash in Current and Savings Bank Account; (iii) value of grains and stores; (iv) investment in fixed Deposits, Government Bonds, National Savings Certificates and Debentures (with details as to each item); (v) arrears under inams and leases of lands, buildings, sites and other rights and decrees; (vi) advance recoverable other than Law Charges; (vii) advances recoverable under Law Charges; (viii) loans to be recovered (with information as to dates on which they were given and the terms of repayment of each item); (ix) value of tools and plants less depreciation; (x) value of lands and buildings belonging to the temple; (xi) value of stamps on hand including postage; and,

(b) a statement of liabilities under the following heads:-

(i) loans (with information as to dates on which they were taken and terms of payment); (ii) taxes, licence fees, contributions to Local Bodies and contributions and costs and expenses; (iii) value of provisions, etc., to be paid for; (iv) salaries and allowances; and (v) other items.

16. The Board shall submit [to the Commissioner] within fifteen days after the close of every quarter ending with 30th June, 30th September, 31st December and 31st March abstracts of receipts and charges for the previous quarter in each of the budget heads.

17. The Commissioner shall obtain and send to the Government any other information that may be required by the Government from time-to-time.

18. The Board shall furnish such returns or other information as may be ordered to be furnished by the Commissioner and the Government.

19. The qualifications, method or recruitment and age-limit for the various posts under the control of the Board shall be as shown in Appendix II. The security to be furnished by the employees of the Board shall be as shown in Appendix III.

20. A candidate will be confirmed only after he passes the Departmental and Special Tests prescribed in Appendix II and any other Special Test that may be prescribed from time to time to the post.

21. Promotions to upper Division and higher cadres shall be made, only if the incumbents have passed the Account Test Examination prescribed. Promotions to Selection Grades shall be made according to merit and ability, seniority being considered where merit and ability are approximately equal. Promotion to non-selection grades shall be made according to strict seniority. Posts including and above the cadres of Upper Division Clerks, are selection grades and the rest non-selection grades.

22. The Board may grant earned leave and increments to all subordinates.

23. The Assistant Commissioner may grant casual leave to Superintendents. He may make all appointment on the sanctioned contingent establishment in all the devaswoms under the Kanyakumari Devaswom Board except the appointment of karanma post and posts to which appointments have to be made by the Board or by privileged individuals or bodies.

24. The Assistant Commissioner may grant leave of absence to melasanthies of major Devaswoms for a period not exceeding three months and appoint substitutes in their places, provided the substitutes so appointed possess the necessary qualifications.

25. The Assistant Commissioner may transfer within his jurisdiction, all his subordinate officers the maximum pay of whose appointment is not above Rs.60 (Rupees sixty only) except those who are in charge of Personal Deposit Devaswoms.

26. The Assistant Commissioner may sanction Travelling Allowance Bills of his office establishment, Superintendents and their establishment and of sub-group officers for authorized journeys.

27. The Assistant Commissioner may transfer contingent employees within his jurisdiction except Karanma holders and those appointed by privileged bodies or persons.

28. The Superintendents may grant leave to members of the contingency staff. They may also levy not exceeding Rs.2/-(Rupees two only).

29. The rules, conditions, etc., prescribed in the Tamil Nadu Financial Code and the Tamil Nadu Accounts Code, Fundamental Rules and Subsidiary Rules, the Manual of Special Pay and Allowances and the Tamil Nadu Services Manual, shall *mutatis mutandis* apply to the officers and servants of the Board.

30. Any change or revision in the scale of pay of the employees shall be effected by the Commissioner on the recommendation of the Board, provided the scale of pay sanctioned to a post in the Board shall not be over and above that attached to an equivalent post in the Tamil Nadu State and Subordinate Service.

31. A pledge in the form specified below may be caused to be taken by the appointee in the immediate presence of the executive authority of the religious institution before the presiding deity in the nearest Hindu religious institution selected for the purpose and two witnesses and the fact of having done so shall be reduced to writing and placed before the head of the office who shall record the same and keep it as a permanent record along with the service register of the person concerned.

32. ¹[Notwithstanding anything contained in these rules, the Government shall have power to deal with the case of any person in the administrative service of the Kanyakumari Devaswom Board in such manner as may appear to them to be just and equitable.

Provided that where any such rule is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that rule.]

1. Added by G.O.Ps.No.4563, dated 12th November, 1961 and shall be deemed to have come into force on the 2nd August, 1961.

FORM

"I, son of residing at village....., taluk.....district....., appointed to the post..... do solemnly swear that I am a Hindu by birth and profess the Hindu religion.

Witnesses-

1.

2.

Signature(s)

Sworn before me:

Signature and designation of Officer,

Explanation. — In the case of new appointees, the pledge referred to above shall be taken before they enter upon their duties.

APPENDIX I

The following are Registers prescribed for the Devaswoms, Group Offices and Assistant Commissioner's Office (now kept in Devaswom Account Office); -

1. Major Devaswoms

1. Receipt for Devaswom Fund Revenue.
2. Nadavaravu Register.
3. Register showing the disposal of valuables received as Nadavaravu.
4. Receipt for Nadavaravu articles.
5. Register of valuables in four parts.
6. Register of sales.
7. Receipt for Vazhivadus.
8. Register of Vazhivadus.
9. Register of Vazhidadu Sadya.
10. Revenue Cash Book.
11. D.C.B. and consolidated Demand Register.
12. Ledger account of stores.
13. Ledger account of issue of paddy for conversion into rice.
14. Account of expenditure of articles for Nityanidanam.
15. Account of expenditure of articles for Masaviseham.
16. Account of expenditure of articles for Thadhi.
17. Account of expenditure of articles for Navathiram.
18. Account of expenditure of articles for Attaviseham.
19. Consolidated account of expenditure.
- 19A. Invoice
- 19D. Contingent Bill.
20. Expenditure cash book.
21. Anamath Register.

II. Group Offices

1. Register of cheques drawn.
2. Register of Devaswom Fund receipts.
3. Treasury Pass Book.
4. Cash Book Expenditure.

5. Intimation to Devaswoms in respect of cheques issued.
6. Register of establishment charges met from contingencies.
7. Demand Register.
8. D.C.B. Register.
9. Budget Register.
10. Eradavu Register for Minor and Petty Devaswoms.
11. Contingent Register for payments under Koppukars, grants to private temples, etc.
12. Group payment register.
13. Register of lands.
14. Liability Register.
15. Register of transport bills.
16. Maramath Bill.
17. Register of comparative statement of monthly receipts.
18. Check-measurement Book.
19. Maramath Register showing the estimates sanctioned and the bills paid.
20. Register of Stationery Articles and Forms.

III. Assistant Commissioner's Office.

1. Register of Liabilities.
2. Budget Register, Distribution of budget to the groups.
3. Register of transport bills.
4. Maramath Register showing estimates sanctioned and bills passed.
5. Register of stationery articles and forms.

IV. Devaswom Account Office

1. Register of expenditure in Major Devaswoms.
2. Register of expenditure in Minor Devaswoms.
3. Register of expenditure in Petty Devaswoms.
4. Register of direct payments by the Groups.
5. Register of total expenditure for each group.
6. Consolidated register of expenditure for the district.
7. Contractor's Ledger.
8. Stores Ledger.
9. Classified Abstract.
10. Register of closing entries of contractors and Stores balances.
11. Imprest Account.
12. Register of cheques drawn.
13. Register of Devaswom Fund receipts.

APPENDIX II.

Serial number and name of Post.	Minimum Qualifications.	Departmental and Special qualifications.	Age Qualification		Method of recruitment.
			Min.	Max.	
(1)	(2)	(3)	(4)	(5)	(6)
1. Assistant Commissioner	As prescribed in The Madras Service Manual	-	-	-	By promotion from the Minis- terial Service of the Kanyakumari Devaswom Board
2. Devaswom Accounts Officer.	A Degree of any University as defined in clause (b) of Sec.2 of the University Grants Commission Act, 1956 (Central Act 23 of 1956.	1. Devaswom Officer's Test. 2. Accounts Test for Subordinate Officers, Parts I and II.			
3. Superintend- ents of Devaswoms and Additional Tiruvabha- ranam Special Officer	Do	1. Devaswom Officer's Test. 2. Accounts Test for Executive Officers.			Do
4. Manager, Assistant Commission- er's Office and Manager, Board Officer.	S.S.L.C. eligible for College Course.	1. Devaswom Officer's Test. 2. Accounts Test for Subordinate Officer's Part I..			Promotion from the Upper Division Clerks.
5. Upper Division Clerks..	Do	Do			By promotion from Lower Division Clerks
6. Lower Division Clerks..	S.S.L.C. eligible for college course	Devaswom Officer's Test..	18	25	By direct recruitment or promotion from Srikariams.

7. Maramath Section Officers.	L.C.E. or any other equivalent qualification of Madras Government Technical (Civil Engineer-with not less than seven years' experience in the Department.)	Do	25	35	By direct recruitment or promotion from Overseers.
8. Overseer and Draftsman..	L.C.E. or Madras Government Technical (Civil Engineering) Examination with not less than three years' service in the Department.	Devaswom Officer's Test for Overseers.	25	30	By direct recruit- ment or promotion from Sub-Group
9. Sub- Overseers..	Madras Government Technical (Civil Engineering) Examination.	Do	18	25	By direct recruitment.
10. Srikariams (including Head Account- tants and Treasurers.)	S.S.L.C. eligible for College Course.	Devaswom Sub- Group Officers' Test			By promotion from Chandirams
11. Chadirams (including Accountants.)	Do	Do	18	25	By direct recruitment.
12. Typists..	S.S.L.C. Typewriting, Lower Grade.	Devaswom Officer's Test..	18	25	Do
13. Attenders and Peons.	VIII Standard.		18	25	Do

NOTE 1.— Special and Departmental Tests prescribed should be passed by the employee within the period of probation.

NOTE 2.— The upper age limit shall not apply to persons promoted from Lower Grade, provided they possess the requisite qualifications.

NOTE 3.— Those persons allotted from the Travancore Devaswom Board and who have already passed the Accounts Test Examination for the erstwhile Travancore-Cochin Government need not be required to pass the Accounts Test for Subordinate Officers, Part I.

NOTE 4.— The Accounts Test prescribed are those conducted by the Tamil Nadu Public Service Commission each year.

NOTE 5.— The Devaswom Officers' Test and Devaswom Sub-Group Officers' Test are Departmental Tests conducted by the Kanyakumari Devaswoms Board each year.

APPENDIX III

Serial Number	Name of post.	Amount of security.
(1)	(2)	Rs. (3)
1	Srikariam	300
2.	Head Accountant	300
3.	Chandirams and Accountants	150
4.	Treasurers (only 3 posts in the Suchindrum, Thiruvattar and Cape Devaswoms)	1000
5.	Librarian, Nagercoil Library (Lower Division Clerk)	100
6.	Santhikars in the Cape, Thriupathisaram and Velimala Devaswoms.	500 each
7.	Perianambi in the Thiruvattar Devaswom	1 (one) year's pay.
8.	Santhikars in other Devaswoms	Amounts ranging from Rs.25 to Rs. 200.

**REPEAL OF THE TAMIL NADU (TRANSFERRED
TERRITORY) INCORPORATED
AND UNINCORPORATED DEVASWOMS ACT, 1959
(TAMIL NADU ACT 30 OF 1959) BY THE TAMIL NADU
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
(THIRD AMENDMENT) ACT, 1974.**

(TAMIL NADU ACT 50 OF 1974)

An Act further to amend the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-fifth Year of the Republic of India as follows: —

1. Short title and commencement. — (1) This Act may be called the “TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (THIRD AMENDMENT) ACT, 1974.”

(2) It shall come into force on such *date as the State Government may, by notification, appoint.

2 to 13. [The amendments made by Sections 2 to 13 have already been incorporated in the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)].

14. Continuance of legal proceedings. — Any legal proceedings taken on behalf of or against the Board constituted under Section 4 of the Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959 (Tamil Nadu Act 30 of 1959), may be continued by or against the Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47. Any amount including costs, under any decree or order of Court obtained for or on behalf of the said Board shall be recoverable by the Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47.

15. Provision for staff of Devaswom Board. — Notwithstanding any law, custom or contract to the contrary, the following provisions shall apply in regard to the persons employed in the administration of any Incorporated and Unincorporated Devaswoms immediately before the date of the commencement of this Act: —

(1) The Government shall have power to terminate the service of any such person after giving one calendar month's notice or paying him one month's pay in *lieu* of such notice.

(2) Persons whose services are retained shall be governed by such rules as the Government may make in regard to them.

16. Repeal.—(1) The Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959 (Tamil Nadu Act 30 of 1959), is hereby repealed.

* This Act came into force on the 4th January 1975.

(2) (i) On and from the date of the commencement of this Act, the Board constituted under section 4 of the Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959 (Tamil Nadu Act 30 of 1959), shall stand abolished and any member of such Board shall with effect from the said date, cease to hold office as such member.

(ii) All orders passed, decisions made, proceedings or action taken and things done under the said Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959, and the rules made thereunder before the date of the commencement of this Act, shall be deemed to have been passed, made, taken or done under the principal Act as amended by this Act, by the Board of Trustees constituted under Clause (b) of Sub-section (1) of Section 47 of the principal Act.

IMPORTANT NOTES

On and from 4th January 1975 (*i.e.*, the date of coming into force of Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974), the Tamil Nadu (Transferred Territory) Incorporated and Unincorporated Devaswoms Act, 1959 (Tamil Nadu Act 30 of 1959) was repealed by Section 16.

17. [The amendment made by this Section has already been incorporated in the Principal Act, namely, the Kanyakumari Sreepandaravaka Lands (Abolition and Conversion into Ryotwari) Act, 1964 (Tamil Nadu Act 31 of 1964)].

18. [The amendment made by this Section has already been incorporated in the Principal Act, namely, the Kanyakumari Sreepadam Lands (Abolition and Conversion into Ryotwari) Act, 1972 (Tamil Nadu Act 11 of 1973)].

19. [The amendment made by this Section has already been incorporated in the Principal Act, namely, the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)].

THE TAMIL NADU PROHIBITION OF FORCIBLE CONVERSION OF RELIGION ACT, 2002.*

(Tamil Nadu Act 56 of 2002)

An Act to provide for prohibition of conversion from one religion to another by the use of force or allurement or by fraudulent means and for matters incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third Year of the Republic of India as follows:-

1. Short title and commencement.— (1) This Act may be called THE TAMIL NADU PROHIBITION OF FORCIBLE CONVERSION OF RELIGION ACT, 2002.

(2) It shall be deemed to have come into force on the 5th day of October, 2002.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) “allurement” means offer of any temptation in the form of—

(i) any gift or gratification either in cash or kind;

(ii) grant of any material benefit, either monetary or otherwise;

(b) “convert” means to make one person to renounce one religion and adopt another religion;

(c) “force” includes a show of force or a threat of injury of any kind including threat of divine displeasure or social ex-communication;

(d) “fraudulent” means includes misrepresentation or any other fraudulent contrivance;

(e) “minor” means a person under eighteen years of age.

3. Prohibition of forcible conversion.— No person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by use of force or by allurement or by any fraudulent means nor shall any person abet any such conversion.

4. Punishment for contravention of provisions of Section 3.— Whoever contravenes the provisions of Section 3 shall, without prejudice to any civil liability, be punished with imprisonment for a term which may extend to three years and also be liable to fine which may extend to fifty thousand rupees:

Provided that whoever contravenes the provisions of Section 3 in respect of a minor, a woman or a person belonging to Scheduled Caste or Scheduled Tribe shall be punished with imprisonment for a term which may extend to four years and also be liable to fine which may extend to one lakh rupees.

5. Intimation to be given to District Magistrate with respect to conversion.— (1) Whoever converts any person from one religion to another either by performing any ceremony by himself for such conversion as a religious priest or by taking part directly or indirectly in such ceremony shall, within such period as may be prescribed, send an intimation to the District Magistrate of the district in which the ceremony has taken place of the fact of such conversion in such form as may be prescribed.

(2) Whoever fails, without sufficient cause, to comply with the provisions of Sub-section (1), shall be punished with imprisonment for a term, which may extend to one year or with fine which may extend to one thousand rupees or with both.

6. Prosecution to be made with the sanction of District Magistrate.—No prosecution for an offence under this Act shall be instituted except by or with the previous sanction of the

* Published in Part IV, Section 2 of the Tamil Nadu Government *Gazette* Extraordinary, dated 2nd December 2002. (Issue No. 791).

District Magistrate or such other authority, not below the rank of a District Revenue Officer, as may be authorised by him in that behalf.

7. Power to make rules.— (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made under this Act shall as soon as possible after it is made be placed on the table of the Legislative Assembly, and if before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or the Assembly decides that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

8. Repeal and saving.— (1) The Tamil Nadu Prohibition of Forcible Conversion of Religion Ordinance, 2002 (Tamil Nadu Ordinance 9 of 2002) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

THE TAMIL NADU PROHIBITION OF FORCIBLE CONVERSION OF RELIGION RULES, 2003.

[G.O.Ms.No.325, Public (Law & Order-C) Department, dated 28th March, 2003]

In exercise of the powers conferred by Section 7 of the Tamil Nadu Prohibition of Forcible Conversion of Religion Act, 2002 (Tamil Nadu Act 56 of 2002), the Governor of Tamil Nadu hereby makes the following rules: —

RULES.

1.Short title. —These rules may be called THE TAMIL NADU PROHIBITION OF FORCIBLE CONVERSION OF RELIGION RULES, 2003.

2.Definitions. —In these rules, unless the context otherwise requires, --

- (a) “**Act**” means the Tamil Nadu Prohibition of Forcible Conversion of Religion Act, 2002 (Tamil Nadu Act 56 of 2002);
- (b) “**Form**” means form appended to these rules;
- (c) “**Government**” means Government of Tamil Nadu.

3.Intimation to District Magistrate. —Whoever converts any person from one religion to another, either by performing any ceremony by himself for such conversion as a religious priest or taking part directly or indirectly in such ceremony shall within 10 days from the date of such ceremony, send an intimation of the fact of such conversion in Form-A to the District Magistrate concerned either in person or by registered post with acknowledgement due:

Provided that in the case of conversion made after the 5th day of October, 2002 and before the publication of these Rules in the *Tamil Nadu Government Gazette*, such intimation shall be sent within 10 days from the date of Publication of these rules in the *Tamil Nadu Government Gazette*.

(2) On receipt of the intimation in Form-A, the District Magistrate shall affix his signature thereon indicating the date and time of receipt of such intimation. Acknowledgement for the receipt of such intimation shall be given in Form-B.

(3) The District Magistrate shall maintain a register in Form-C and enter therein the particulars furnished in Form-A.

(4) The District Magistrate shall, before the 10th day of every month, send a report to the Government in Form-D.

APPENDIX

FORM-A

[See rule 3 (1)]

INTIMATION REGARDING CONVERSION

To

The District Magistrate,
.....District.

Sir,

I having performed the ceremony for conversion, as a religious priest/having taken part in the conversion ceremony of Thiru/Tmt/Selvi -----S/o./D/o-----resident of _____ from _____ religious faith, do hereby give intimation of the conversion as follows:--

1. Name of the person converted:
2. Name of the parent/ guardian of the person converted:

3. Age:
4. Sex:
5. Whether married or unmarried:
6. Address of the person converted in full:
7. Occupation and monthly income of the person converted:
8. If a minor, name and full address of the guardian:
9. Community to which the person converted belongs:
10. Name and address of the place where the conversion ceremony has taken place:
11. Date and time of conversion:
12. Name of the religious priest who has performed the conversion ceremony and his address:

Signature of the religious priest/the persons who took part in the conversion ceremony.

FORM-B

[See Rule 3(2)]

ACKNOWLEDGEMENT

Received intimation under rule 3(1) of the Tamil Nadu Prohibition of Forcible Conversion of Religion Rules, 2003 from Thiru/Tmt. _____
 S/o./D/o. Thiru/Tmt. _____ resident of _____ with respect to conversion of
 Thiru/Tmt./Selvi _____ S/o./D/o. _____ resident of _____ from
 _____ religious faith to _____ religious faith.
 Date _____ District Magistrate.

FORM-C

[See Rule 3(3)]

REGISTER OF CONVERSION

1. Name of the person converted:
2. Name of the parent/ guardian of the person converted:
3. Age:
4. Sex:
5. Whether married or unmarried:
6. Address of the person converted in full:
7. Occupation and monthly income of the person converted:
8. If a minor, name and full address of the guardian:
9. Community to which the person converted belongs:
10. Name and address of the place where the conversion ceremony has taken place:
11. Date and time of conversion:
12. Name of the religious priest who has performed the conversion ceremony and his address:

FORM-D

[See Rule 3(4)]

REPORT FOR THE MONTH OF _____

1. Number of intimation received during the month:
2. Number of intimation received after the prescribed time limit:
3. Number of cases in which further action has been initiated:
4. Number of cases in which prosecution was sanctioned:

District Magistrate.

THE TAMIL NADU ENDOWMENTS AND ESCHEATS REGULATION (VII OF 1817).*[30th September, 1817]*

<i>Year</i>	<i>No.</i>	<i>Short title</i>	<i>Amendments.</i>
1817	VII	The Tamil Nadu Endowments and Escheats Regulation, 1817.	Repealed in part, Act XX of 1863; repealed so far as the Hindu Religious Endowments are concerned by Madras Act II of 1927 See also Madras Act VII of 1914, S.2; Madras Act (XXXV of 1949); A.L.O., 1950; Madras-Act IX of 1951.

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges or other public purposes; for the maintenance and repair of bridges, choultries or chattrams, and other public buildings; and for the custody and disposal of escheats.

1. WHEREAS considerable endowments have been granted in money or by assignments of land, or of the produce or portions of the produce of land by former Government of this country,²[] and by individuals for the support of mosques, Hindu temples, colleges and for other pious and beneficial purposes; and whereas there are grounds to believe that the produce of such endowments is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments, and whereas it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover expedient for the maintenance and repair of bridges, choultries, chattrams and other buildings which have been erected either at the expense of Government or of individuals, for the use and convenience of the public; and also to establish proper rules for the custody and disposal of escheats—the following rules have been enacted, to be in force from the date of their promulgation throughout the¹[territories] immediately dependent on the Presidency of Fort St. George.

2. General superintendence of endowments for support of mosques, etc.—The general superintendence of all endowments in land or money granted for the support of mosques, Hindu temples or colleges, or for other pious and beneficial purposes, and of all public buildings,

1. Short title, 'The Madras Endowments and Escheats Regulation, 1817—see the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation shall cease to apply to Hindu religious institutions and endowments,—see Sec.5 (3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1951 (Tamil Nadu Act XIX of 1951.)

So much of this Regulation as relates to endowments for the support of mosques, Hindu temples or other religious purposes is repealed by the Religious Endowments Act, 1863 (Central Act XX of 1863).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), Sec.4 and the Second Schedule, to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

This Regulation was extended to the merged State of Pudukkottai by Sec.3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

2. The words 'as well as by the British Government' were omitted by the Adaptation Order of 1950.

such as bridges, choultries or chattrams, and other edifices, in the several ¹[territories] dependent on the Presidency of *Fort St. George*, is hereby vested in the Board of Revenue².

3. Board to provide for appropriation of such endowments, and for repair of public buildings.—It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description abovementioned are duly appropriated to the purposes for which they were destined by the Government or the individuals by whom such endowments were made. In like manner it shall be the duty of that Board to provide, ³[* * * *] for the due repair and maintenance of all public edifices which have been erected at the expense either of the former or present Government, or of individuals, and which either are or can be, rendered conducive to the convenience of the community.

4. Buildings fallen to decay or not calculated to be useful if repaired, how to be disposed of.—In those cases, however, in which any of the buildings specified in the preceding section have fallen to decay, and cannot be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Board of Revenue shall submit to ⁴[the State Government] their opinion as to the most expedient mode of disposing of such buildings; and they shall be sold on the public account, or otherwise disposed of, as the ⁵[State Government] may determine.

5. Board to prevent endowments from being appropriated to private uses.—Under the foregoing rules it may be incumbent on the Board of Revenue to prevent any endowments in land or money, which have been granted for the support of establishments of the above description, or any public edifices, from being converted to the private use of individuals or otherwise misappropriated.

6. General superintendence of escheats.—The general superintendence of all escheats is likewise hereby vested in the Board of Revenue, who will, through the channel hereafter mentioned, inform themselves fully of all property of that description, and submit to ⁴[the State Government] their opinion as to the most expedient mode of disposing thereof; and the same shall be sold on the public account, or otherwise disposed of, as the ⁵[State Government] may determine.

7. Local agents.—To enable the Board of Revenue to better carry into effect the duties entrusted to them by this Regulation, local agents shall be appointed in each zilla, subject to the authority, control and orders of that Board.

8. Ex-officio agents.—The Collector of the zilla shall be *ex-officio* one of those agents, and the ⁵[State Government], when ⁶[it] deems it necessary, may appoint any other public officer or officers from the civil, military, or medical branch of the service to act in conjunction with him.

1. This word was substituted for 'Provinces' by the Adaptation Order of 1950.

2. The Board of Revenue has been abolished by Tamil Nadu Act XXXVI of 1980. But under S.10 thereof a reference to the Board shall be deemed to be a reference to the Government or the Appropriate Authority specified in the notification issued by the Government under Section 4 (1).

3. The words 'with the sanction of Government' were repealed by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

4. The words 'the Provincial Government', were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by Adaptation Order of 1950.

5. The words 'Provincial Government' were substituted for the words 'Governor in council' by the Adaptation Order of 1937 and the word 'State' was substituted for 'provincial' by the Adaptation Order of 1950.

6. This word was substituted for the word 'he' by the Adaptation Order of 1937.

9. Agents to ascertain particulars of endowments, etc., and report to Board.—Under the provisions of the present Regulation it will be the duty of the local agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those before described, and respecting all escheats, and to report to the Board of Revenue any instance in which they may have reason to believe that lands or buildings, or the rent or revenues derived from lands are unduly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

10. To report names, etc., of present trustees or managers, and by what authority appointed.—The said local agents shall further ascertain and report to the Board of Revenue the names of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, together with other particulars respecting them, and by whom and under what authority they have been appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder or under any general rules or maxims applicable to such institutions and foundations.

11. To report to Board vacancies or casualties and pretensions of claimants.—The local agents shall also report to the Board of Revenue all vacancies and casualties which may occur, with full information of all circumstances, to enable that Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession has been heretofore by inheritance in the line of descent, or whether the successor has been in former instances elected, and by whom, or whether he has been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

12. To recommend fit persons where right of nomination rests with Government.—In those cases in which the nomination has usually rested with the Government, or with the public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation and to the general rules or the known usages of the country applicable to such cases.

13. Board to appoint persons or make other provisions for trust with reference to conditions of endowment.—On the receipt of the report and information required by the preceding clause, the Board of Revenue shall either appoint the person or persons nominated for their approval, or shall make such other provision for the trust, management or superintendence, as may to them seem right and fit, with reference to the nature and conditions of the endowment, having previously called for any further information from the local agents that may appear to them to be requisite.

14. Persons feeling injured by orders under Regulation may sue for recovery of rights or for damages.—Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the before-mentioned authorities with respect to the appropriation of any lands or buildings, of any rents and revenues from lands, of the nature of those before

described, from suing in the mode and form prescribed by the Regulations where ¹[the Government] or public officers are parties; or under the general provisions of Regulations, if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

15. Object of Regulation.—It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands or other endowments granted for public purposes agreeably to the intent of the grantor, and not to resume any part of them or of their produce, for the benefit of Government. In like manner it is fully intended that all buildings erected by any former or the present Governments, or by individuals, for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot be conveniently repaired or which can no longer contribute to the accommodation of the community.

16. Government servants and others guilty of fraud or embezzlement, how punished.—The legislative provisions now in force or which may hereafter be enacted, for the punishment of fraud or embezzlement in the ²[] servants of ¹[the Government] employed under the Collector in the department of land revenue, shall be held applicable, to all ²[] servants, and to all trustees, managers or superintendents employed in, or charged with, the settlement, custody or appropriation of the revenues, funds or other property of the public institutions referred to in this Regulation,

³[17. Notwithstanding anything hereinbefore contained, the ⁴(State Government) may delegate power to dispose of buildings under Section 4 or escheats under Section 6 to the Board of Revenue or to any officer not below the rank of an officer-in-charge of the revenue administration of a division of a district.]

1. The words 'the Crown' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'Government' was substituted for 'Crown' by the Adaptation Order of 1950.

2. The word 'Native' was omitted by the Adaptation Order of 1950.

3. Section 17 was added by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

4. The words 'Provincial Government' were substituted for words 'Governor in Council' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

THE TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (AMENDMENT AND VALIDATION) ACT, 1983.

ACT No. 48 of 1983

1. Short title and commencement.— (1) This Act may be called THE TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (AMENDMENT AND VALIDATION) ACT, 1983.

(2) Section 3 shall be deemed to have come into force on the 1st June, 1982 and the rest of the Act shall come into force at once.

4. Validation.— Notwithstanding anything contained in any judgment, decree or order of any Court or other authority, any appropriation of the surplus fund referred to in Section 36 of the principal Act made during the period commencing on the 1st June, 1982 and ending with the date of publication of this Act in the Tamil Nadu Government Gazette, by the trustee of a religious institution for making contribution towards any fund mentioned in Section 36-B of the principal Act, shall for all purposes be deemed to be and to have always been validly made in accordance with law, as if Section 3 had been in force at all material times when such appropriation was made.

Statement of Objects and Reasons.

Certain leading religious institutions in the State of Tamil Nadu willingly contributed from their surplus funds to the fund constituted for the purpose of feeding the poor or for constructing any building, shed or centre for feeding such poor. To give statutory recognition to the contribution made by the religious institution, it is proposed to insert a new provision as Section 36-B in the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) so as to vest the Trustees of the religious institution with specific powers to appropriate the surplus funds of the institution for making contribution towards any fund constituted for the purpose of feeding the poor or construction of any building, shed or centre for feeding the poor. It has also been proposed to validate the contributions already made towards any such fund.

2. Section 4 of the Act empowers the Government to exempt any religious institution from the operation of any of the provisions of the Act or the rules made thereunder. It has been considered that power should be taken for the grant of exemption with retrospective effect by the Government in appropriate cases. Opportunity has, therefore, been availed of to make necessary amendment to Section 4 for this purpose.

ADDED CASE LAWS

6(11) Feeding to Brahmin during religious festival -not Hindu religious one

It is held that the celestial wedding of Goddess Meenakshi is only an occasion for feeding the people at a distant place and it has no connection with the Hindu festival. Charity is no way connected with temple festival, also, it is not associated with festival performed at Madurai. No material was shown that feeding was connected with the festival. Also as evidence to show who returns only after attending the festival are fed. It has not been shown the administration of the charity is controlled by the person responsible for conducting the festival and there is no close nexus between the charity performed and to religious festival conducted in the temple, and hence as per Sec.6(16). Annachatram in Iyyar Papakudi Avaniapuram, Madurai TK is not a public

charity - *The Commissioner, HR & CE (A) Dept. Madras and others -V- S.Ramaswamy and two others.* (2001)-2-L.W. 654.

6(15)

The petitioner claimed that they are not paid servants but they are holders of pooja mirasu right from the inception of the temple, that they are entitled to the Archanai Kanikkai, Deeparadhanai Kanikkais and the other Kanikkais paid by the devotees during the daily worship and during the festival times, and as such the respondents cannot interfere and curtail the rights of the petitioner by introducing the Archanai Ticket system, it was stated that as per Section 57, respondent has got no power to introduce such Archanai ticket that too without notice to Archakas.

It is held that the documents clearly show that the Archakars have received their proportionate share from Archanai tickets and hence the writ petition is only for challenging to enhancement of tickets.

It is further held that as per Sec.57 of the Act, introduction of Archanai ticket is lawful and petitioners are not entitled to various kanikkais and subject to regulatory measures of temple.

Administration

It is further held that if there is going to be a variation, whether it be an increase or decrease in the Archanai ticket system and fixation of fees for services, etc. the Archakas are entitled to notice and they must be heard before determining the said amount. - *Sthanikam C. Rajagopala Dikshithar -V- The Executive Officer, Sri. Rajagopalaswamy Devasthanam, Mannargudi, Thanjavur Dist.* (2001)-1-L.W.544.

Private Temple

It is held that the temple is situated within the compound of the 1st respondent's property and that access to the temple is through the same gate through which one enters the residential premises of the 1st respondent. It is also clear that to enter the temple one has to obtain the permission of the 1st respondent and also obtain the keys from him. Therefore access is only upon the permission and pleasure of the founder and his family member. The absence of Hundial also shows that no contribution from the public is received at the temple.

Also held that there is a Vimaanam, a balibeedam and an extension on all sides of the temple with facilities and also because prasadam was distributed to the children who assemble every day. Sporadic donation or participation in worship by permission of the founder with not make the temple a public one. Needless to say, in our country public will not be forbidden, from participation in or from being allowed to worship in a temple. The question is, whether they do so as a matter of right or because the founder permits them to do so. And hence the suit temple is a private one. - *Commissioner HR & CE - Madras -V- N.Sundaraswamy Gounder, and P.Velu Mylaswamy*, (2001) -2-L.W. p.774.

6(22) Civil Court Decree - shall be considered

HR & CE Commissioner and Deputy Commissioner have given finding that the petitioners are entitled to manage the temple as hereditary trustee. After lapse of 20 years, alleging that no proper notice was served and, hence the old orders were at naught.

Civil Court Decree marked as Fix A10 was not considered. The High Court has held that once the civil Court decreed under Article 261 of the constitution, full faith and credit should be given to the civil Court proceedings. Thus the conclusion of the first respondent which can be made after a lapse of 20 years, that too, without any justifiable grounds cannot be sustained.

S.Palaniswamy and 2 others -vs- The Commissioner, HR & CE Madras and two others, (2001)-2-L.W. 783.

Hereditary trustee - declaration

Since the plaintiff has not adduced evidence to show that his ancestors were trustees of the suit temples, the trustees of the temple could not be declared as hereditary trustees. - ***T.K.Manangatti -V- Poongavanam and four others, (2001)-2-L.W. 529.***

Hereditary trustees - Nominated trustees can be

Under Sub-clause (6) of Sec.9 of 1927 Act, the hereditary trustee included a person who was nominated by the trustees, for the time being in office. 1951 Act omits the system of nomination.

Now the question raised is whether the 1951 Act repeals the 1927 Act and any rights continued under Act 1927 in the Board of trustees could continue in force and this question would depend upon the provision of Section 103 of 1951 Act.

Supreme Court has held that it is true that rights vested in any persons or authority under a repealed statute are not to be deemed to be interfered with by the repealing statute, unless there is any provision in the repealing statute which expressly or by necessary implication interferes into the rights accrued to any persons or body under a repealed statute of 1927. But in over view, the language contained in Sub-clause (a) of Section 103 of the Act of 1951 evidences a clear intention to depart from the scheme of the 1927 Act and no longer to call the persons nominated by the Board of "hereditary trustees" after 1951 as "hereditary trustees", in other words, if any trustees are nominated subsequent to the commencement of 1951 Act, by the Board of Hereditary trustees (who came into office pursuant to the will of Venkatarangayya or their nominees) then those persons would not be governed by the definition of Sub-clause (6) of Section 9 of the 1927 Act, but will be governed by the definition of Sub-clause (6) of Section 9 of the 1927 Act, but will be governed by Section 6(9) of the 1951 Act. Such person cannot be described as hereditary trustees "in as much as by altering the definition of "hereditary trustees", the 1951 Act has chosen to interfere with an existing right of Board to nominate fresh trustees as hereditary trustees".

We therefore hold that if any trustee has been nominated subsequent to the commencement of the 1951 Act by the Board of Trustees who were in office prior to 1951 or by their nominees, then such persons could not be called "hereditary trustee" within the meaning of Sub-clause (6) of Section 9 of 1951 Act, similarly, if the persons who were themselves not hereditary trustees after the 1951 Act, either by themselves then such trustees would not be hereditary trustees. The position is no different after the 1959 Act.

Also held that it does not mean however the right conferred onto Board of trustees, whenever a vacancy occurs in the five places created by Venkatarangayya, is done away with altogether by the 1951 Act or by the post called as non-hereditary trustees only. -***D. Srinivasan - V- The Commissioner and others, (2001)-2-L.W.15 (SC).***

57, 34

Lease of temple proportion

It is held that Rule 2 provides that the properties shall be eased out as public auction only.

Further provides that such public auction can be dispensed with if no loss is going to occur to the temple. Since 50% of a reservation to employees of temple and HR & CE Department is not a complete restriction on public and only in the interest of the temple it is held valid. Circular

allocation of 50% to its employees are also valid. - *Vijayakumar, Mr. Somasundaram Kittu Mr. Srinivasaragavan -V- Special Commissioner, HR & CE Chennai and two others, (2001)-2-L.W. 667.*

Secs.70(1), 6(17), 63(c) and 109 CPL Sec.96

Since the vital issue whether the properties constitute a religious endowment, and in the absence of either trustees or any other person appointed by Government in the place of trustees, there cannot be a complete and full adjudication. Also all powers of High Court will be available to it normally as an Appellate Court, including power to remand, the High Court remanded the matter to *Commissioner, HR & CE (Admn.) Department, Madras and others -V- P. Viswanathan Pillai, 2002 L.W. 546.*

Sec.190 (1)

It is held that no meaning till date to understand "as nearly as may be".

The Commissioner pointed out that the Agama with which the suit temple is governed is pancharatram and took the view that going abroad can never be a bar to resume duty in the temple as priest of any category.

When the suit is filed to set aside that order and to maintainability of suit the, Division Bench held that the 4th respondents i.e. the Commissioner, H.R. & C.E. delegated the power to the Deputy Commissioners and whether the order passed by the Deputy Commissioner is to be treated as one passed by the Commissioner himself, it is held the order passed by the Deputy Commissioner is an administrative order on the basis of a general public enquiry and he passed the order not on delegated power and is not one coming under Sec.63 of the Act and a revision under Sec.21 would lie and hence no suits are maintainable. *C.A. Jagannathan -V- T.E. Srinivasan and three others, (2002) -4 L.W. 259, (DB Mad).*

Sec.34(8)

As per Section 34(8), and definition therein devadasis are not entitled to enter into a contract of marriage. *Rajam and four others -V- Chidambaravadivelu and six others, (2002)-3 L.W. 803.*

Sec.108

It is held that Arulmigu Muthalamman Temple is not a denominational temple as the test laid down for the same has not been established. *The Commissioner, H.R. & C.E. (Admn.), Madras-34, Asst. Commissioner (H.R. & C.E.) Admn. Cuddalore -V- Krishnaswamy Padayachi and 3 others, 2002-1-L.W. 804.*

Also see *Sri Adi Visheswara of Kanchi Vishwanathan Temple, 1997(4) SCC 606.*

Sec.59(1)

It is held that any such order prohibiting the Sankaracharya to go abroad, on the alleged contravention of the tenets of the math, will lead to a dangerous proposition violating the guaranteed fundamental rights.

It is also held since still he has not gone abroad, mere intention or proposal would not attract Sec.59.

Also held that the representation filed under sec 59(1) of the Act dealing with disqualification, is not attracted as it does not call for consideration of the said representation at this stage. Also petitioner has no legal right so as to invoke Art.216 to issue mandamus to consider the representation by the second respondent. -*A. Sankaran -V- The Government of TN rep. by its Secretary to Government and two others, 2002-L.W. 29.*

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT, 1951.

[Received the assent of the President on the 27th August, 1951, Published in the Fort St. George Gazette, Part IV-B, Extraordinary, page 175, dated the 28th August, 1951.]

[Act No. XIX OF 1951.]

An Act to Provide for the better administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras.

WHEREAS it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title, extent, application and commencement.— (1) This Act may be called THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT, 1951.

(2) It extends to the whole of the State of Madras and applies to all Hindu public religious institutions and endowments, including the Tirumalai-Tirupati Devasthanams and the endowments thereof.

Explanations.—In this sub-section, Hindu public religious institutions and endowments do not include Jain religious institutions and endowments.

(3) It shall come into force on such date as the Government may, by notification in the *Fort St. George Gazette*, appoint.

2. Power to extend Act to Jain religious institutions and endowments.—The Government may, by notification in the *Fort St. George Gazette*, extend to Jain public religious institutions and endowments all or any of the provisions of this Act and of any rules made thereunder and thereupon the provisions so extended shall apply to such institutions and endowments as if the expressions 'Hindu' and 'Hindus' therein included 'Jain' and 'Jains' respectively:

Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the institutions and endowments concerned to show cause against the issue of the notification, and consider their objections, if any.

3. Power to extend Act to charitable endowments.— Where the Government have reason to believe that any Hindu or Jain Public charitable endowments is being mismanaged and are satisfied that in the interests of the administration of such charitable endowment it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification in the *Fort St. George Gazette*, extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment:

Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment to show cause against the issue of the notification, and consider their objections, if any.

4. Exemptions.- The Government may, by notification in the *Fort St. George Gazette*:-

(a) exempt from the operation of any of the provisions of this Act or of any rules made thereunder, any religious or charitable institution or endowment, the administration of which is for the time being vested in the Official Trustee or in the Administrator-General; or

(b) vary or cancel such exemption.

5. Repeals. - (1) The Madras Religious Endowments Act, 1926, is hereby repealed.

(2) The Tirumalai-Tirupati Devasthanams Act, 1932, is hereby repealed, but the repeal shall not revive the arrangement made by the Government in 1843 for the management of the Tirumalai-Tirupati Devasthanams or the scheme settled by the Privy Council in Appeal No.6 of 1906 or the rules framed under such scheme.

(3) The following enactments shall cease to apply to Hindu religious institutions and endowments, namely:-

(a) the Madras Endowments and Escheats Regulation, 1817;

(b) the Religious Endowments Act, 1863;

(c) the Charitable Endowments Act, 1890;

(d) the Charitable and Religious Trusts Act, 1920; and

(e) sections 92 and 93 of the Code of Civil Procedure, 1908.

6. Definitions.- In this Act, unless there is anything repugnant in the subject or context—

(1) “Area Committee” means, in relation to any temple or specific endowment, the Area Committee constituted under this Act and having jurisdiction over such temple or endowment;

(2) “Assistant Commissioner” means an Assistant Commissioner appointed under section 8;

(3) “Board” means the Board constituted under Section 10 of the Madras Hindu Religious Endowments Act, 1926;

(4) “Charitable Endowment” means all property given or endowed for the benefit of; or used as of right by, the Hindu or the Jain community or any section thereof, for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institution for the advancement of education, medical relief and public health or other objects of a like nature; and includes the institution concerned;

(5) “Commissioner” means the Commissioner appointed under Section 8;

(6) “Court” means—

(i) in relation to a math or temple situated in the Presidency town, the Madras City Civil Court;

(ii) in relation to a math or temple situated elsewhere, the subordinate Judge’s Court having jurisdiction over the area in which the math or temple is situated, or if there is no such Court, the District Court having such jurisdiction;

(iii) in relation to specific endowment attached to a math or temple, the Court which would have jurisdiction as aforesaid in relation to the math or temple;

(iv) in relation to a specific endowment attached to two or more maths or temples, any Court which would have jurisdiction as aforesaid in relation to either or any of such maths or temples;

(7) “Deputy Commissioner” means a Deputy Commissioner appointed under Section 8;

(8) “Government” means the State Government;

(9) "hereditary trustee" means the trustee of a religious institution succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force;

(10) "math" means a Hindu religious institution with properties attached thereto and presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body; and includes places of religious worship or instruction which are appurtenant to the institution;

Explanation.—Where the headquarters of a math are outside the State but the math has properties situated within it, control shall be exercised over the math in accordance with the provisions of this Act, in so far as the properties of the math situated within the State are concerned.

(11) "person having interest" means—

(a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;

(b) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat ;

(12) "Prescribed" means prescribed by rules made by the Government under this Act.

(13) "religious charity" means a public charity associated with a Hindu festival or observance of a religious character, whether it is connected with a math or temple or not ;

(14) "religious endowment" or "endowment" means all property belonging to, or given, or endowed for the support of maths or temples, or given, or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts of property made as personal gifts to the archaka, service-holder or other employee of a religious institution;

Explanation (1).—Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee but shall be deemed to be a religious endowment.

Explanation (2).—All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a "religious endowment" or "endowment" within the meaning of this definition, notwithstanding that, before or after the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed:

Provided that this Explanation shall not be deemed to apply in respect of any property which vested in any person before the commencement of this Act, by the operation of the law of limitation.

(15) "religious institution" means a math, temple, or specific endowment;

(16) "specific endowment" means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other

religious charity, but does not include an inam of the nature described in Explanation (1) to Clause(14);

(17) "temple" means a place by whatever designation known, used as a place of public religious worship, and dedicated to, or for the benefit of or used as of right by, the Hindu community or any section thereof, as a place of public religious worship;

(18) "Tirumalai-Tirupati Devasthanams" or "Devasthanams" mean the temples specified in Schedule II and the endowments thereof and shall include the educational institutions referred to in Schedule III;

(19) "trustee" means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and includes any person or body who or which is liable as if such person or body were a trustee.

CHAPTER II.

THE COMMISSIONER AND OTHER CONTROLLING AUTHORITIES.

7. Authorities under Act.- There shall be the following classes of authorities under this Act, namely:-

- (a) The Commissioner;
- (b) Deputy Commissioners;
- (c) Assistant Commissioners; and
- (d) Area Committees.

8. Government to appoint Commissioner, etc.- The Government shall appoint the Commissioner and such number of Deputy and Assistant Commissioners as they think fit.

9. Commissioner, etc., to be Hindus.- The Commissioner, every Deputy or Assistant Commissioner and every other officer or servant appointed to carry out the purposes of this Act, by whomsoever appointed, shall be a person professing the Hindu religion, and shall cease to hold office as such when he ceases to profess that religion.

10. Delegation to Deputy Commissioners.- (1) The Commissioner shall, with the previous approval of the Government, specify the area within which each Deputy Commissioner, if there is more than one, shall exercise the powers and discharge the duties assigned by or under this Act to a Deputy Commissioner as such.

(2) The Commissioner may delegate any of the powers conferred or duties imposed on him by or under this Act [including the powers and duties of an Assistant Commissioner which may be exercised by the Commissioner under the proviso to Section 11, Sub-section (2), but not including the powers and duties of the Commissioner under Sections 18,19,38,39,52,56,61,64 or 76 (2)] in respect of any area or of any class or group of institutions in the State or any area therein to a Deputy Commissioner subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

11. Territorial jurisdiction and powers and duties of Assistant Commissioners.- (1) The Commissioner shall, with the previous approval of the Government, divide the State into divisions, each of which shall be in the charge of an Assistant Commissioner.

(2) An Assistant commissioner shall exercise such powers and discharge such duties as are assigned to him by or under this Act in respect of his division:

Provided that the Commissioner may, by order in writing, declare that the exercise and discharge of all or any of such powers and duties shall be subject to such exceptions, limitations

and conditions as may be specified in the order, and may himself exercise or discharge any power or duty so excepted.

(3) The Commissioner may delegate to an Assistant Commissioner any of the powers conferred or duties imposed on the Commissioner by or under this Act [other than the powers and duties referred to in Sections 18,19,38,39,52,56,61,64 or 76 (2)] in respect of the division of the Assistant Commissioner or of any institutions or any class or group of institutions in that division, subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

12. Area Committees.- (1) The Government—

(a) shall, as soon as may be after the commencement of this Act, by notification in the *Fort St. George Gazette*, constitute an Area Committee for all temples situated in an Assistant Commissioner's division or part thereof other than temples included in the list published under Section 38; and

(b) may likewise abolish any Area Committee constituted under clause (a), provided that before doing so, a reasonable opportunity shall be given to the Committee to show cause against its abolition.

(2) An Area Committee shall have jurisdiction over specific endowments attached to the temples for which it is constituted, other than specific endowments included in the list published under Section 38:

Provided that where a specific endowment is attached to two or more temples comprised within the jurisdiction of two or more Area Committees, the Commissioner shall decide as to which of the Area Committees shall have jurisdiction over the specific endowment:

Provided further that where a specific endowment is attached partly to one or more temples included in the list published under Section 38 and partly to one or more temples not so included, only the Commissioner shall have jurisdiction over the specific endowment and no Area Committee shall have jurisdiction.

13. Strength of Area Committees and term of office and disqualifications of members.-(1) Every Area Committee shall consist of such number of members as may be appointed by the Government, not being less than three or more than five.

(2) Save as otherwise expressly provided in this section, a member of an Area Committee shall be entitled to hold office for three years from the date on which his appointment is notified in the *Fort St. George Gazette*.

(3) A person shall be disqualified for being appointed as, or for being, a member of an Area Committee—

(a) if he does not profess the Hindu religion;

(b) if he has applied or applies to be, or has been, or is, adjudicated an insolvent;

(c) if he is of unsound mind, a deaf-mute or suffering from contagious leprosy;

(d) if he is a trustee of, or an office-holder or a servant attached, to or a person in receipt of any emolument or perquisite from, any temple or specific endowment over which the Area committee has jurisdiction, or if he belongs to a joint Hindu family, a member of which is such a trustee, office-holder or servant, or a person in receipt of any such emolument or perquisite;

(e) if he has been sentenced by a criminal Court to transportation or to imprisonment for a period of more than six months, for any offence other than an offence not involving moral

turpitude, such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification.

(4) A person shall also be disqualified for being appointed as a member of an Area Committee if he is already a member of some other Area Committee.

(5) A member of an Area Committee shall also cease to hold office—

(a) if he absents himself from three consecutive meetings of the Committee:

Provided that when a person who ceased to be a member by reason of such absence, applies for restoration within one month from the date of the last of the three meetings, the Committee may, at the meeting next after the receipt of such application, restore him to his office of member, but a member shall not so restored more than twice during his term of office, or

(b) if he resigns his office by giving notice in writing to the Government.

14. Chairman of Area Committee.- (1) The Assistant Commissioner of the division for which or part of which an Area Committee is constituted shall be its Chairman and shall be entitled to preside over its meetings and take part in its proceedings, but shall not be entitled to vote.

(2) He shall forward to the Commissioner a copy of the minutes of the proceedings at every meeting of the Area Committee within a week from the date of the meeting.

15. Power of Government to make rules.- The Government may make rules regarding the convening of meetings of Area Committees, the quorum for, and the conduct of business at, such meetings, and all matters relating to the transaction of their business.

16. Act of Area Committee not to be invalidated by informality.- No act of an Area Committee shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the Chairman or any member thereof was disqualified for, or had ceased to hold, his office, or by reason of such act having been done during the period of any vacancy in the office of the Chairman or any member of such Committee.

17. Performance of functions of Area Committee on abolition.- Where an Area Committee has been abolished under Clause (b) of Sub-section (1) of Section 12, a new Area committee shall be constituted within six months of its abolition and till then its powers and duties shall be exercised and discharged by the Assistant Commissioner concerned.

18. Power of Commissioner to call for records and pass orders.- (1) The Commissioner may call for and examine the record of any Deputy or Assistant Commissioner, of any Area Committee, or of any trustee not being the trustee of a math or of a specific endowment attached to a math, in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein.

(2) If any such decision or order has been passed by any Deputy or Assistant Commissioner, or by the trustee of any religious institution other than one included in the list published under Section 38, and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for re-consideration, he may pass orders accordingly.

(3) (a) If any such decision or order has been passed by any Area Committee or by the trustee of any religious institution included in the list published under Section 38, the Commissioner may, if he thinks fit, remit the matter together with his observations in regard

thereto, to the Committee or trustee for reconsideration of the decision or order and report to the Commissioner within a time to be specified by him in this behalf.

(b) On receipt of, and after considering such report, it shall be open to the Commissioner to modify, annul, or reverse the decision or order, or the decision or order as revised after such reconsideration, as the case may be.

(c) If the report is not received by the Commissioner within the time specified or such further time as may be granted by him, the Commissioner may modify, annul or reverse the decision or order of the Area Committee or trustee, as the case may be.

(4) The Commissioner shall not pass any order prejudicial to any party under Sub-section (2) or Clause (b) or Clause (c) of Sub-section (3) without hearing him or giving him a reasonable opportunity of being heard.

(5) The Commissioner may stay the execution of any decision or order of the nature referred to in Sub-section (1), pending the exercise of his powers under Sub-section (2) or Sub-section (3) in respect thereof.

19. Other powers of Commissioner in relation to Deputy and Assistant Commissioners and Area Committees. (1) The Commissioner shall have power at any stage—

(a) to transfer any proceeding pending before a Deputy or an Assistant Commissioner to his own file and dispose of it himself, or

(b) to transfer it to another Deputy or Assistant Commissioner for disposal.

(2) If the Commissioner is satisfied that a Deputy or an Assistant Commissioner has failed to exercise any power or discharge any duty which he ought to have exercised or discharged, the Commissioner may himself exercise such power or discharge such duty.

(3) If the Commissioner is satisfied that an Area Committee—

(a) has failed to exercise any power or discharge any duty which it ought to have exercised or discharged, or

(b) is unable for any reason to exercise any power or discharge any duty, the Commissioner may himself exercise such power or discharge such duty or authorize the Assistant Commissioner to do so:

Provided that in cases falling under clause (a), the Commissioner shall first fix a period for the exercise of the power or the performance of the duty by the Area Committee and shall exercise the right conferred on him by this Sub-section only if the power is not exercised or the duty is not performed by the Area Committee within the period so fixed.

(4) Notwithstanding anything contained in this Act, where the office of a Deputy or an Assistant Commissioner is vacant, the Commissioner may, until the vacancy is filled—

(a) himself exercise the powers and discharge the duties assigned by or under this Act to the Deputy or Assistant Commissioner, or

(b) authorize another Deputy or Assistant Commissioner under Sub-sections (1) (a), (2), (3) or (4) (a) not being an order against which a suit or an appeal to a Court is provided in this Act, may appeal to the Government within three months from the date of the receipt of the order by him:

Provided that the Government shall not pass any order prejudicial to any party without hearing him or giving him a reasonable opportunity of being heard.

CHAPTER III RELIGIOUS INSTITUTIONS.

General Provisions.

20. Powers and duties of the Commissioner in respect of religious endowments.-

Subject to the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.

21. Power to enter religious institution.- (1) The Commissioner, Deputy and Assistant Commissioners and such other officers as may be authorized by the Commissioner or the Area Committee in this behalf shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.

(2) If any such officer is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.

(3) Nothing in this section shall be deemed to authorize any person who is not a Hindu to enter the premises or place referred to in Sub-section (1) or any part thereof.

22. Trustee to be Hindu and within certain limits of age.- No person may succeed or be appointed to, or hold, the office of the trustee of a religious institution—

(a) unless he professes the Hindu religion, and

(b) except in the case of a hereditary trustee, unless he is not less than twenty-five and not more than seventy years of age.

23. Trustee bound to obey orders issued under Act.- The trustee of a religious institution shall be bound to obey all lawful orders issued under the provisions of this Act by the Government, the Commissioner, the Deputy Commissioner, the Area Committee or the Assistant Commissioner.

24. Care required of trustee and his powers.- (1) Subject to the provisions of the Madras Temple entry Authorization Act, 1947, the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution, and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds, and properties if they were his own.

(2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incidental to the provident and beneficial administration of the religious institution and to do all things necessary for the due performance of the duties imposed on him.

(3) A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges, or expenses incurred by him in any suit, appeal, or application or other proceeding for, or incidental to, his removal from office or the taking of any disciplinary action against him:

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under Section 88.

25. Preparation of register for all institutions.- (1) For every religious institution, there shall be prepared and maintained a register showing—

- (a) the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee;
- (b) Particulars of the scheme of administration and of the *dittam* or scale of expenditure;
- (c) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;
- (d) the jewels, gold, silver, precious stones, vessels and utensils, and other movables belonging to the institution, with their estimated value;
- (e) particulars of all other endowments of the institution and of all title deeds and other documents;
- (f) particulars of the idols and other images in or connected with the institution, whether intended for worship or for being carried in processions;
- (g) such other particulars as may be required by the Commissioner.

(2) The register shall be prepared, signed and verified by the trustee of the institution concerned or by his authorized agent and submitted by him to the Commissioner, directly in the case of a math through the Area Committee, in case the institution is subject to the jurisdiction of an Area Committee, and through the Assistant Commissioner in other cases, within three months from the commencement of this Act or from the founding of the institution, as the case may be, or within such further period as may be allowed by the Commissioner, the Area Committee, or the Assistant Commissioner:

Provided that this sub-section shall not apply where a register so signed and verified has been submitted to the Board before the commencement of this Act.

(3) The Area Committee or the Assistant Commissioner, if the register is submitted through it or him, may, after such inquiry as it or he may consider necessary, recommend such alterations, omissions, or additions in the register as it or he may think fit.

(4) The Commissioner may, after receiving the register and the recommendations of the Area Committee or of the Assistant Commissioner with respect thereto and making such further inquiry as he may consider necessary, direct the trustee to make such alterations, omissions, or additions in the register as the Commissioner may deem fit.

(5) The trustee shall carry out the orders of the Commissioner and then submit three copies of the register as corrected to the Commissioner for approval.

(6) One copy of the register as approved by the Commissioner shall be furnished to the trustee and one to the Area Committee or the Assistant Commissioner concerned, if any,

26. Annual verification of the register.- The trustee or his authorized agent shall scrutinize the entries in the register every year and submit to the Commissioner for his approval, directly or through the Area Committee or through the Assistant Commissioner, as the case may require, a verified statement showing the alterations, omissions, or additions required in the register; and the provisions of Sub-sections (3) to (6) of Section 25 shall apply in relation to such statement as they apply in relation to register.

27. Trustee to furnish accounts, returns, etc.,- (1) The trustee of every religious institution shall furnish to the Commissioner such accounts, returns, reports or other information relating to the administration of the institution, its funds, property or income, or moneys

connected therewith, or the appropriation thereof, as the Commissioner may require at such time and in such form as he may direct.

(2) The powers conferred by Sub-section (1), may also be exercised by the Assistant Commissioner in the case of religious institutions other than maths, and by the Area Committee in the case of institutions subject to its jurisdiction.

28. Inspection of property and documents.- (1) The Commissioner or any officer or other person deputed by the Commissioner in this behalf may inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, any religious institution.

(2) The powers conferred by Sub-section (1) may also be exercised, in the case of religious institutions other than maths, by the Assistant Commissioner, and in the case of institutions over which an Area Committee has jurisdiction by any member of the Committee authorized by it in this behalf.

(3) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern, in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of Sub-section (1) or Sub-section (2) and also to produce for inspection any movable property or document referred to in Sub-section (1) if so required.

29. Alienation of immovable trust property.- (1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property belonging to, or given or endowed for the purposes of, any religious institution shall be *null and void* unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by the Commissioner.

(2) When according such sanction, the Commissioner may impose such conditions and give such directions as he may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may within three months from the date of his receipt of a copy of the order, and any person having interest may within three months from the date of the publication of the order, appeal to the Government to modify the order or set it aside.

(5) Nothing contained in this section shall apply to the inams referred to in Section 35.

30. Authority of trustee to incur expenditure for securing the health, etc., of pilgrims and worshippers and for the training of archakas, etc.,- (1) The trustee of a religious institution may out of the funds in his charge, after making adequate provision for the purposes referred to in Section 70, Sub-section (2) incur expenditure—

(a) on arrangement for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of Archakas, Adhyapakas, Vedaparayanikas and Othuvars.

(2) In incurring such expenditure, the trustee shall be guided by such general or special instructions as may be given by the Commissioner or in the case of an institution over which an Area Committee has jurisdiction, also by such Committee.

31. Utilization of surplus funds.- (1) If after making adequate provisions for the purposes referred to in Section 70, Sub-section (2), and also for the arrangements and the training referred to in Section 30, sub-section(1), there is a surplus in the income of the institution, the trustee thereof may, with the previous sanction in writing of the Deputy Commissioner, appropriate such surplus or any portion thereof for all or any of the purposes specified in Section 59, Sub-section (1):

Provided that before according such sanction, the Deputy Commissioner shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest:

Provided further the sanction aforesaid shall be published in such manner as may be prescribed;

(2) Any person having interest may, within such time as may be prescribed, appeal to the Commissioner against the sanction accorded by the Deputy Commissioner under Sub-section (1).

32. Enforcement of service or charity in certain cases.- (1) Where a specific endowment attached to a math or temple consists merely of a charge on property and there is failure in the due performance of the service or charity, the trustee of the math or temple concerned may require the person in possession of the property on which the endowment is a charge, to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise. In default of such person making payment as required, the Deputy Commissioner may, on the application of the trustee and after giving the person in possession a reasonable opportunity of stating his objections in regard thereto, by order, determine the amount payable to the trustee.

(2) Where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the service or charity and any amount is paid by or recovered from the person in possession, the Deputy Commissioner may on the application of the person in possession and after giving the person responsible in law a reasonable opportunity of stating his objections in regard thereto, by order, require the person responsible in law to pay to the person in possession the amount so paid or recovered.

(3) Against an order of the Deputy Commissioner under Sub-section (1) or Sub-section (2) the trustee or the person affected may, within two months from the date of the receipt of the order by him, appeal to the Commissioner.

(4) On application by the trustee to the Collector of the district in which the property referred to in Sub-section (1) is situated, or on application by the person in possession to the Collector of the district in which is situated any property of the person responsible in law, as the case may be, the Collector shall recover from the person in possession or the person responsible in law, as the case may be, the amount specified in the order of the Deputy Commissioner as modified by the order of the Commissioner, if any, and the expenses of such recovery as if they were arrears of land revenue and pay to the trustee or, as the case may be, to the person in possession, the amount due to him.

33. Power of trustee of math or temple over trustees of specific endowments.- The trustee of a specific endowment made for the performance of any service or charity connected

with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

34. Enfranchisement or freeing of lands, etc., held by a devadasi on condition of service in a temple.— (1) (a) (i) Where the remuneration for any service to be performed by a devadasi in a temple consists of lands granted or continued in respect of, or annexed to, such service by the Government, the Government shall enfranchise the said lands from the conditions of service by imposition of quit-rent.

(ii) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the Government shall enfranchise such assignment of revenue from the conditions of service:

Provided that where, at the time when proceedings are taken under this sub-clause, the devadasi is herself the owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in Sub-clause (i).

(iii) Where the remuneration for such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in Sub-clause (i) and of the assignment of the land revenue in the manner laid down in Sub-clause (ii).

Explanation.—For the purpose of this clause, a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the *proviso* to sub-clause (ii), the owner of the lands in question.

(b) Enfranchisement under clause (a) shall be effected in accordance with such rules as the Government may make in this behalf and shall take effect as and from such date as they may fix.

(2) Where the remuneration for such service consists in whole or in part, of lands or of produce of lands not falling under Sub-section (1), the Government shall direct the Collector to determine the amount of rent payable on the lands or the produce in question. The Collector shall thereupon, after giving notice to the party concerned and holding such enquiry as may be prescribed by the Government, by an order, determine the amount of rent, and in doing so, he shall have due regard to—

(a) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighboring villages; and

(b) the improvements, if any, effected by the devadasi in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

(3) The amount of rent fixed by the Collector under Sub-section (2) may be questioned by petition presented to the Board of Revenue within three months of the date of the publication of the order under the said Sub-section but subject to the result of such petition, the order of the Collector fixing the amount of rent under Sub-section (2) shall be final and shall not be liable to be questioned in any Court of law:

Provided, however, that the Board of Revenue shall have power on sufficient grounds to entertain a petition presented after expiration of the period of three months.

(4) While determining the rent under Sub-section (2), the Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service on and from the date so fixed.

(5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable, when such land, assignment or produce is enfranchised or freed, as the case may be, in the manner, hereinbefore provided.

(6) No order passed under Sub-sections (1), (2) or (3) shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land, or assignment of land revenue or produce derived from land, as the case may be.

(7) (a) The quit-rent imposed under Sub-section (1) shall be payable to the temple concerned.

(b) the assignment of land revenue enfranchised under Sub-section (1), or the rent fixed under Sub-sections (2) and (3), as the case may be, shall be payable to the devadasi concerned during her lifetime and after her death to the temple concerned.

(8) For the purpose of this section, "devadasi" shall mean any Hindu unmarried female, who is dedicated to a temple.

(9) Where any inam is granted for a service which is auxiliary to the service, to be performed by a devadasi in a temple, such inam shall be enfranchised or freed from the condition of service, as if it were a devadasi inam; and the provisions of Sub-sections (1) to (8) shall apply accordingly.

35. Resumption and re-grant of inam granted for the performance of any charity or service.— (1) Any exchange, gift, sale or mortgage, and any lease for a term exceeding five years, of the whole or any portion of any inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or of any other religious charity and made, confirmed or recognized by the Government shall be *null and void*:

Provided that any transaction of the nature aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.

Explanation.—Nothing contained in this Sub-section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the Madras Estates Land Act, 1908.

(2) (a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely:—

(i) that except in the case referred to in the *proviso* to Sub-section (1), the holder of such inam or part or the trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

(ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible of performance, or

(iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognized as aforesaid, or any part of the said charity or service, as the case may be.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is grant of both the melvaram and the kudivaram or only of the melvaram:

Provided that in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram.

(b) Before passing an order under clause (a), the Collector shall give notice to the trustee, to the Commissioner, to the inamdar concerned, to the person in possession of the inam where he is not the inamdar concerned, to the person in possession of the inam where he is not the inamdar, and to the alienee, if any, of the inam; the Collector shall also publish a copy of such notice in such manner as may be prescribed and such publication shall be deemed to be sufficient notice to every other person likely to be affected by such order; and the Collector shall hear the objections if any, of the person to whom such notice is given or deemed to be given and hold such inquiry as may be prescribed.

Explanation.—Where only a part of the inam is affected, notice shall be given under this clause to the holder of such part as well as to the holder or holders of the other part or parts, to the person in possession of every such part where he is not the holder thereof, and to the alliance, if any, of every such part and the objections of all such persons shall be heard by the Collector.

(c) A copy of every order passed under clause (a) shall be communicated to each of the persons mentioned in clause (b), and shall be published in the manner prescribed.

(d) (i) Any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal the District Collector may after giving notice to the Commissioner and each of the persons mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

(ii) The order of the District Collector on such appeal, or the order of the Collector under clause (a) where no appeal is preferred under sub-clause (i) to the District Collector within the time prescribed, shall be final:

Provided that where there has been an appeal under sub-clause (i) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired, any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a civil Court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under sub-clause (i), or from the date of the expiry of the period prescribed under sub-clause (i) for an appeal to the District Collector where there has been no such appeal.

(e) Except as otherwise provided in clause (d), an order of resumption passed under this section shall not be liable to be questioned in any Court of law.

(f) Where any inam or part of any inam is resumed under this section, the Collector or the District Collector, as the case may be, shall, by order, re-grant such inam or part—

(i) as an endowment to the religious institution concerned, or

(ii) in case of resumption on the ground that the religious institution has ceased to exist or that the charity of service in question has in any way become impossible of performance, as an endowment for such religious, educational or charitable institution as the Commissioner may recommend.

(g) The order of re-grant made under clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(h) Nothing in this section shall affect the operation of section 34.

36. Office-holders and servants of religious institutions not to be in possession of jewels, etc., except under conditions.- Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act or in any decree or order, of a Court, or any custom or usage to the contrary no office-holder or servant of a religious institution shall have the right to be in possession of the jewels or other valuables belonging to the religious institution except under such conditions and safeguards as the Commissioner, may, by general or special order, direct.

Religious institutions other than maths or specific endowments attached thereto.

37. Sections 38 to 51 not to apply to maths or specific endowments.- The provisions of Sections 38 to 51 shall not apply to maths or specific endowments attached to maths.

38. Commissioner to publish list of certain institutions.- The Commissioner shall publish in the prescribed manner a list of the religious institutions whose annual income as calculated for the purposes of the levy of contribution under Section 76 is not less than twenty thousand rupees, and may from time-to-time modify such list in the prescribed manner:

Provided that the Commissioner shall not be bound to remove any institution from such list unless its annual income calculated as aforesaid has fallen below twenty thousand rupees for three consecutive years.

39. Trustee and their number and term of office.- (1) Where a religious institution included in the list published under Section 38 or over which no Area Committee has jurisdiction, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him.

(2) Where any such institution has, at the commencement of this Act, both a hereditary trustee or trustees and a non-hereditary trustee or trustees, the Commissioner shall have power to appoint the non-hereditary trustee or trustees as and when vacancies arise in their number.

(3) Every trustee appointed under sub-section (1) or sub-section (2) shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee.

40. Chairman.- (1) In the case of a religious institution for which a Board of Trustees is constituted under Section 39, Sub-section (1), the Board shall elect one of its member to be its Chairman.

(2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall elect one of their member to be the Chairman.

(3) A Chairman elected under Sub-section (1) or Sub-section (2) shall hold office for such period as may be prescribed.

41. Power of Area Committee to appoint trustees.- (1) In the case of any religious institution over which an Area Committee has jurisdiction, the Area Committee shall have the same power to appoint trustees as is vested in the Commissioner in the case of a religious institution referred to in Section 39:

Provided that the Area Committee may, in the case of any institution which has no hereditary trustee, appoint a single trustee.

(2) The provisions of Section 39, Sub-section (3), and Section 40, shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the Area Committee as they apply in relation to the trustee or trustees appointed or the Board of Trustees constituted, by the Commissioner.

42. Power under Sections 39 and 41 to be exercisable notwithstanding provision in scheme.- The power to appoint trustees under Section 39 or Section 41 shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provisions to the contrary.

43. Claims of certain persons to be trustees.- In making appointments of trustees under Section 39 or 41, the Commissioner, or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained.

44. Non-hereditary trustees holding office at commencement of the Act.- Every non-hereditary trustee lawfully holding office at the commencement of this Act, shall be deemed to have been duly appointed trustee under this Act for the residue of his term of office at such commencement.

45. Power to suspend, remove or dismiss trustees.- (1) The Deputy Commissioner in the case of any religious institution over which an Area Committee has jurisdiction, and the Commissioner in the case of any other religious institution, may suspend, remove or dismiss any hereditary or non-hereditary trustee or trustees thereof—

(a) for persistent default in the submission of budgets, accounts, reports or returns, or
(b) for wilful disobedience of any lawful order issued under the provisions of this Act by the Government, the Commissioner or deputy Commissioner, the Area Committee or the Assistant Commissioner, or

(c) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the trust, or

(d) for any misappropriation of, or improper dealing with, the properties of the institution, or

(e) for unsoundness of mind or other mental or physical defect or infirmity which unfits him for discharging the functions of the trustee.

(2) When it is proposed to take action under Sub-section (1), the Commissioner or the Deputy Commissioner, as the case may be, shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with the reasons therefor;

Provided that the Deputy Commissioner shall also consult the Area Committee before passing the final order under Sub-section (1).

(3) Pending the disposal of the charges framed against the trustee, the Commissioner or the Deputy Commissioner may place the trustee under suspension and appoint a fit person to discharge the functions of the trustee.

(4) It shall be open to an Assistant Commissioner to move the Deputy Commissioner to take action under Sub-section (1) in respect of any trustee of an institution over which an Area Committee has jurisdiction, and to place the trustee under suspension pending the orders of the Deputy Commissioner under Sub-section (3).

(5) A trustee who is suspended, removed or dismissed under Sub-section (1), may, within one month from the date of the receipt of the order of suspension, removal or dismissal, appeal against the order to the Commissioner if it was passed by a Deputy Commissioner, and to the Government if it was passed by the Commissioner.

46. Disqualifications of trustees.- (1) A non-hereditary trustee shall cease to hold his office if he—

(a) is sentenced by a criminal Court to transportation or to imprisonment for a period of more than six months, for any offence other than an offence not involving moral turpitude, such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification; or

(b) applies to be adjudicated or is adjudicated an insolvent.

(2) In cases of doubt or dispute, the Deputy Commissioner shall determine whether a trustee is disqualified under Sub-section (1) or not.

(3) If a hereditary trustee becomes subject to any of the disqualifications described in Sub-section (1), the Deputy Commissioner may supersede the trustee.

(4) Any person affected by an order of the Deputy Commissioner under Sub-section (2) or Sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Commissioner.

47. Filling up of vacancies in the office of hereditary trustee.- (1) When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.

(2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustee under Section 45, Sub-section (1), or by reason of his supersession under Section 46, Sub-section (3), the next in the line of succession shall be entitled to succeed and discharge the functions of the trustee until his disability ceases.

(3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office, or

when such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for discharging the functions of the trustee, the Deputy Commissioner may appoint a fit person to discharge the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as the Deputy Commissioner may direct.

Explanation.- In making any appointment under this Sub-section, the Deputy Commissioner shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the Deputy Commissioner under Sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Commissioner.

(5) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

48. Appointment of office-holders and servants in religious institutions.

Vacancies, whether permanent or temporary, amongst the office-holders or servants of a religious institution shall be filled up by the trustee in cases where the office or service is not hereditary.

(2) In cases where the office or service is hereditary, the next in the line of succession shall be entitled to succeed.

(3) Where, However, there is a dispute respecting the right of succession, or where such vacancy cannot be filled up immediately, or where the person entitled to succeed is a minor without a guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or where the hereditary office-holder or servant is suspended from his office under Section 49, Sub-section (1),

the trustee may appoint a fit person to discharge the functions of the office or perform the service, until the disability of the office-holder or servant ceases or another person succeeds to the office or service, as the case may be.

Explanation.— In making any appointment under this Sub-section, the trustee shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the trustee under Sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

49. Punishment of office-holders and servants in religious institutions.— (1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall, whether the office or service is hereditary or not, be controlled by the trustee, and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.

(2) Any office-holder or servant punished by a trustee under Sub-section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

(3) A hereditary office-holder or servant may, within one month from the date of the receipt by him of the order of the Deputy Commissioner under Sub-section (2), prefer an appeal to the Commissioner against such order.

50. Power to fix fees for archanaïs and determine their apportionment.— Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act, or any decree or usage to the contrary, the trustee of a temple shall have power, subject to such conditions as the Commissioner may, by general or special order, direct, to fix fees for the performance of archanaïs and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of the temple.

51. Fixing of standard scales of expenditure.— (1) The trustee of a religious institution may, from time-to-time, submit to the Area Committee if the institution is subject to the jurisdiction of such a Committee, and to the Commissioner in other cases, proposals for fixing the *dittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with such institution or the proportions in which the income or other property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the institution and in such other manner as may be required by the Area Committee or the Commissioner, as the case may

be, together with a notice stating that, within one month from the date of such publication, any person having interest may submit his objections or suggestions to the Area Committee or the Commissioner.

(3) After the expiry of the said period, the Area Committee or the Commissioner shall, after considering any objection and suggestions received, pass such order as it or he may think fit on such proposals, having regard to the established usage of the institution and its financial position; and a copy of the order shall be communicated to the trustee.

(4) Against an order made by the Area Committee under Sub-section (3), the trustee or any person having interest may, within one month from the date of the receipt of the order by the trustee, appeal to the Deputy Commissioner.

(5) The *dittam* or scale of expenditure for the time being in force in an institution shall not be altered by the trustee except in accordance with the procedure laid down in this section.

CHAPTER IV.

MATHS.

52. Suit for the removal of trustee of math or specific endowment attached thereto.-

(1) The Commissioner, or any two or more persons having interest and having obtained the consent in writing of the Commissioner, may institute a suit in the Court to obtain a decree for removing the trustee of a math or a specific endowment attached to a math, for any one or more of the following reasons, namely:-

- (a) the trustee being of unsound mind;
- (b) his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee;
- (c) his having ceased to profess the Hindu religion or the tenets of the math;
- (d) his conviction for any offence involving moral turpitude;
- (e) breach by him of any trust created in respect of any of the properties of the religious institution;
- (f) persistent and willful default by him in discharging his duties or functions under this Act or any other law.

(2) Where the Commissioner refuses to give consent under Sub-section (1), the party aggrieved may, within three months from the date of the receipt of the order by him, appeal to the Government who may, after making such inquiry as they may consider necessary, confirm the order of the Commissioner or direct the Commissioner to give his consent in writing.

53. Filling of vacancies.- (1) When a vacancy occurs in the office of the trustee of a math or specific endowment attached to a math and there is a dispute respecting the right of succession to such office, or when such vacancy cannot be filled up immediately, or when the trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian; or

when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee, the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math or of the specific endowment, as the case may be, and shall report the matter forthwith to the Commissioner.

(2) Upon the receipt of such report, if the commissioner, after making such inquiry as he deems necessary, is satisfied that an arrangement for the administration of the math and its endowments or of the specific endowment, as the case may be, is necessary, he shall make such

arrangement as he thinks fit until the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.

(3) In making any such arrangement, the Commissioner shall have due regard to the claims of the disciples of the math, if any.

(4) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

54. Fixing of standard scales of expenditure.- (1) The trustee of every math or specific endowment attached to a math may, from time-to-time, submit to the Commissioner proposals for fixing the *dittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with the institution or the proportions in which the income or the property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the math and in such other manner as the Commissioner may direct, together with a notice stating that, within one month from the date of such publication, any person having interest may submit suggestions to the Commissioner.

(3) If on a scrutiny of such proposals, and any suggestions made by persons having interest, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, the Commissioner may call for the remarks of the trustee and if after considering the same, the Commissioner is of opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure, he shall submit the case to the Government who shall pass orders thereon, and such orders shall be final.

55. Power to spend 'pathakanika'.- (1) The trustee of a math shall be entitled to spend at his discretion, for purposes connected with the math any 'pathakanika', that is to say, any gift of property or money made as a personal gift to him as the head of the math.

(2) The trustee shall keep regular accounts of all receipts and disbursements of the nature referred to in Sub-section(1), and shall cause such accounts to be produced before the Commissioner or any person authorized by him in this behalf, whenever so required.

56. Appointment of manager of secular affairs of math.- (1) For the administration of the secular affairs of a math, the trustee of the math shall, when so required by the Commissioner, appoint a competent person as manager and report the name of the person so appointed, to the Commissioner; and in default of such appointment, the Commissioner may himself make the appointment.

(2) The manager appointed under Sub-section (1) shall be subordinate to the trustee of the math and shall, in addition to the trustee, be responsible for the due submission to the Commissioner of the registers, accounts and budgets of the math, and also for the performance of other statutory duties imposed upon the trustee by or under this Act.

CHAPTER V. INQUIRIES.

57. Deputy Commissioner to decide certain disputes and matters.- Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters:—

- (a) whether an institution is a religious institution;
- (b) whether a trustee holds or held office as a hereditary trustee;
- (c) whether any property or money is a religious endowment;

(d) whether any property or money is a specific endowment;

(e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;

(f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses; and

(g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.

58. Power of Deputy Commissioner to frame schemes.- (1) When the Deputy Commissioner has reason to believe that in the interests of the proper administration of a religious institution, a scheme should be settled for the institution, or when not less than five persons having interest make an application in writing, stating that in the interests of the proper administration of a religious institution of a scheme should be settled for it, the Deputy Commissioner shall consult in the prescribed manner the trustee and the persons having interest and the Area committee, if any, having jurisdiction over the institution; and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, frame a scheme of administration for the institution.

(2) A scheme settled under Sub-section (1) for a temple or for a specific endowment other than one attached to a math may contain provision for-

(a) removing any existing trustee, whether hereditary or non-hereditary:

Provided that where provision is made in the scheme for the removal of a hereditary trustee, provision shall also be made therein for the appointment as trustee of the person next in succession who is qualified;

(b) appointing a new trustee or trustees in the place of or in addition to any existing trustee or trustees;

(c) defining the power and duties of the trustee or trustees;

(d) appointing, or directing the appointment of, a paid Executive Officer who shall be a person professing the Hindu religion, on such salary and allowances as may be fixed, to be paid out of the funds of the institution; and defining the powers and duties of such officer:

Provided that in making any provision of the nature specified in Clause (b), due regard shall be had to the claims of persons belonging to the religious denomination for whose benefit the institution is chiefly maintained.

(3) A scheme settled under Sub-section (1) for a math or for a specific endowment attached to a math may contain provision for-

(a) associating one or more persons with the trustee or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowments of such math or of the specific endowment:

Provided that such person or persons or the members of such body shall be chosen from persons having interest in such math or endowment;

(b) appointing or directing the appointment of a paid Executive Officer, who shall be a person professing the Hindu religion, on such salary and allowances as may be fixed by the Deputy Commissioner, to be paid out of the trust funds, and defining the powers and duties of such officer;

(c) defining the powers and duties of the trustee.

(4) The Deputy Commissioner may determine what the properties of the religious institution are and append to the scheme a schedule containing a list of such properties:

Provided that such determination shall not affect the rights of persons who are in hostile possession of any of the said properties.

(5) Pending the framing of a scheme for a temple or for a specific endowment other than one attached to a math, the Deputy Commissioner may appoint a fit person to discharge all or any of the functions of the trustee thereof and define his powers and duties.

(6) The Deputy Commissioner may, at any time, after consulting the trustee and the persons having interest and the Area Committee, if any, having jurisdiction over the institution, by order, modify or cancel any scheme settled under Sub-section (1) or a scheme settled by the Board under the Madras Hindu Religious Endowments Act, 1926.

(7) Every order of the Deputy Commissioner settling, modifying or cancelling a scheme under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of Sections 61 and 62, be binding on the trustee, the Executive Officer and all persons having interest.

(8) The powers conferred by this section shall, in respect of maths, be exercised by the Commissioner or by a Deputy Commissioner to whom powers in this behalf have been delegated by the Commissioner under Section 10, Sub-section (2).

59. Appropriation of endowments.- (1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been or has subsequently become, impossible of realization, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes, namely:-

(a) the propagation of the religious tenets of the institution;

(b) the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;

(c) the establishment and maintenance of educational institutions where instruction on the Hindu religion is also imparted to Hindu students thereof;

(d) promoting the study of Indian language including Sanskrit;

(e) promotion of the cultivation of Indian arts and architecture;

(f) the establishment and maintenance of orphanages for Hindu children;

(g) the establishment and maintenance of asylums for Hindus suffering from leprosy;

(h) the establishment and maintenance of poor homes for destitute Hindus who are physically disabled and helpless;

(i) the establishment and maintenance of hospitals and dispensaries for the benefit of Hindus; and

(j) the grant of aid to any other religious institution which is poor or in needy circumstances:

Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof, the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.

(2) The Deputy Commissioner may at any time by order modify or cancel any order passed under Sub-section (1).

(3) The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of Section 61, be binding on the trustee, the Executive Officer and all persons having interest.

60. Determination and application of properties and funds of defunct religious institutions.- (1) The Deputy Commissioner may, on being satisfied that a religious institution has, whether before or after the commencement of this Act, ceased to exist, hold an inquiry in the prescribed manner to ascertain its properties and funds; and after doing so, shall pass an order—

(a) specifying the properties and funds of the institution;

(b) appointing a trustee therefor;

(c) directing the recovery of any such Properties or funds from any person who may be in possession thereof; and

(d) laying down that the properties and funds so specified shall be applied or utilized for renovating the institution or if such renovation is not possible, be appropriated to any one or more of the purposes specified in Section 59, Sub-section (1).

(2) The Deputy Commissioner may, on being satisfied after holding an inquiry in the prescribed manner, that any building or other place which was being used for religious worship or instruction has, whether before or after the commencement of this Act, ceases to be used for that purpose, pass an order—

(a) directing the recovery of such building or place from any person who may be in possession thereof; and

(b) laying down that it shall be used for religious worship or instruction as before, or if such use is not possible, be utilized for any one or more of the purposes specified in Section 59, Sub-section (1).

(3) Nothing contained in Sub-section (1) or Sub-section (2) shall be deemed to authorize the Deputy Commissioner to pass an order in respect of any property or funds which vested in any person before the commencement of this Act by the operation of the law of limitation.

(4) Every order of the Deputy Commissioner under Sub-section (1) or Sub-section (2) shall be published in the prescribed manner.

61. Appeal to the Commissioner.- (1) Any person aggrieved by any order passed by the Deputy Commissioner under any of the foregoing provisions of this Chapter may, within one month from the date of the publication of the order or of the receipt thereof by the party concerned, as the case may be, appeal to the Commissioner.

(2) Any order passed by the Commissioner on such appeal against which no suit lies to the Court under the next succeeding section, or in which no suit has been instituted in the Court within the time specified in Section 62, Sub-section (1), may be modified or cancelled by the Commissioner if the order has settled or modified a scheme for the administration of a religious institution or relates to any of the matters specified in Section 59.

62. Suits and appeals.- (1) Any party aggrieved by an order passed by the Commissioner—

(i) under Section 61, Sub-section (1) or Sub-section (2), and relating to any of the matters specified in Section 57, Section 58 or Section 60; or

(ii) under Section 57, Section 58 or Section 60 read with Sub-section (1) (a), (2) or (4) (a) of Section 19 or with Sub-section (3) or (4) of Section 80;

may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order; and the Court may modify or cancel such order, but it shall have no power to stay the Commissioner's order pending the disposal of the suit.

(2) Any party aggrieved by a decree of the Court under Sub-section (1) may, within ninety days from the date of the decree, appeal to the High Court.

(3) (a) Any scheme for the administration of a religious institution settled or modified by the Court in a suit under Sub-section (1) or on an appeal under Sub-section (2) or any scheme deemed under Section 103, Clause (d) to have been settled or modified by the Court may, at any time, be modified or cancelled by the Court on an application made to it by the Commissioner, the trustee or any person having interest.

(b) Any party aggrieved by an order of the Court under clause (a) may, within ninety days from the date of the order, appeal to the High Court.

CHAPTER VI.

NOTIFIED RELIGIOUS INSTITUTIONS.

63. Issue of notice to show cause why institution should not be notified.- (1) Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this Chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter.

(2) Such notice shall state the reasons for the action proposed, and specify a reasonable time, not being less than one month from the date of the issue of the notice for showing such cause.

(3) The trustee or any person having interest may thereupon prefer any objection he may wish to make to the issue of a notification as proposed.

(4) Such objection shall be in writing and shall reach the Commissioner before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the Commissioner.

64. Consideration of objections, if any, and notification of institution.- (1) Where no such objection has been received within the time so specified or granted, the Government may, on receipt of a report from the Commissioner to that effect, by notification published in the *Fort St. George Gazette* declare the religious institution to be subject to the provisions of the Chapter.

(2) Where any such objections have been received within the time so specified or granted, the Commissioner shall hold an inquiry into the objections in the manner prescribed, and decide whether the institution should be notified to be subject to the provisions of this Chapter or not.

(3) If the Commissioner decides that the institution should be notified as aforesaid, he shall make a report to that effect to the Government who may, thereupon, by notification published in the *Fort St. George Gazette*, declare the religious institution to be subject to the provisions of this Chapter.

(4) Every notification published under this section shall remain in force for a period of five years from the date of its publication; but the Government may, at any time, on an application made to them, cancel the notification.

65. Scheme to lapse on notification.- On the publication of the notification, the scheme of administration, if any, settled for the religious institution, whether before or after the commencement of this Act, and all rules, if any, framed under such scheme shall cease to apply to the institution; and such scheme and rules shall not be deemed to be revived by reason of the cancellation of the notification or by reason of its having ceased to be in force by efflux of time.

66. Appointment of salaried Executive Officer.- (1) For every institution notified under this Chapter, the Commissioner shall as soon as may be, appoint a salaried Executive Officer, who shall be a person professing the Hindu religion.

(2) The salary and allowances of the Executive Officer, as determined by the Commissioner, shall be paid from the funds of the religious institution.

67. Term of office and duties of Executive Officer.- (1) The Executive Officer shall hold office for such period as may be fixed by the Commissioner and he shall exercise such powers and perform such duties as may be assigned to him by the Commissioner:

Provided that only such powers and duties as appertain to the administration of the endowments of the religious institution shall be assigned to the Executive Officer.

(2) The Commissioner shall define the powers and duties which may be exercised and performed respectively by the Executive Officer and the trustee, if any, of the religious institution.

(3) The Executive Officer shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

68. Removal of Executive Officer.- The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the Executive Officer.

69. Section 58 not to apply to notified institutions.- Section 58 shall not apply to, and no Area Committee shall have jurisdiction over, any religious institution notified under this Chapter or under Chapter VI-A of the Madras Hindu Religious Endowments Act, 1926, so long as the notification remains in force.

CHAPTER VII.

BUDGETS, ACCOUNTS AND AUDIT.

70. Budgets of religious institutions.- (1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be fixed by the Commissioner, a budget showing the probable receipts and disbursements of the institution during the following fasli year—

(a) to the Commissioner, in other cases.

(2) Every such budget shall make adequate provision for—

(a) the *dittam* or scale of expenditure for the time being in force;

(b) the due discharge of all liabilities binding on the institution;

(c) the repair and renovation of the building connected with the institution, the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to contribution under Section 76 for the previous fasli year on an income not exceeding three thousand rupees, and not being less than twenty-five per centum of its income, or ten per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount, whichever is less, in the case of any other institution:

Provided that any institution the income of which does not exceed or does not sufficiently exceed the expenditure referred to in Clauses (a) and (b) may be exempted by the Commissioner, in whole or in part as the case may be, from the requirement of this clause;

(d) the maintenance of a working balance.

(3) The Area Committee or the Commissioner, as the case may be, may, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions or additions in the budget as the Area Committee or the Commissioner may deem fit.

(4) Against an order made by the Area Committee under Sub-section (3), a trustee may, within one month from the date of the receipt by him of the order, appeal to the Deputy Commissioner.

71. Accounts and audit.- (1) The trustee of every religious institution shall keep regular accounts of all receipts and disbursements.

(2) The accounts of every religious institution, the annual income of which as calculated for the purposes of Section 76 for the fasli year immediately preceding is not less than sixty thousand rupees, shall be subject to concurrent audit, that is to say, the audit shall take place as and when expenditure is incurred.

(3) The accounts of every other religious institution shall be audited annually or if the Commissioner so directs in any case or class of cases, at shorter intervals.

(4) The audit shall be made—

(a) in the case of a religious institution the annual income of which calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, by auditors appointed in the prescribed manner, who shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code;

(b) in the case of any other religious institution, by an officer or servant subordinate to the Commissioner and deputed by him for the purpose.

72. Authority to whom audit report is to be submitted.- After completing the audit for any year or shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report—

(a) to the Area Committee if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in other cases.

73. Contents of audit report.- (1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the religious institution, or of loss or waste of money or other property thereof, caused by neglect or misconduct.

(2) The auditor shall also report on such other matter relating to the accounts as may be prescribed, or on which the Commissioner or the Area Committee concerned, as the case may be, may require him to report.

74. Rectification of defects disclosed in audit and order of surcharge against trustee, etc.- (1) The Area Committee or the Commissioner, as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Area Committee or the Commissioner, as the case may be.

(2) The Area Committee shall forward to the Commissioner a copy of every audit report received by it under Clause (a) of Section 72 and the report, if any, of the trustee made under Sub-section (1), together with such remarks as the Area Committee may wish to make thereon.

(3) If, on a consideration of the report of the auditor along with the report, if any, of the trustee, and the remarks, if any, of the Area Committee, the Commissioner thinks that the trustee or any other person was guilty of misappropriation or willful waste of the funds of the institution or of gross neglect resulting in a loss to the institution, the Commissioner may, after giving notice to the trustee or such person to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not from the funds of the religious institution:

Provided that if, in respect of any expenditure or dealing with trust property, the trustee or such person had obtained the directions of the Area Committee or of the Commissioner and had acted in accordance with such directions, he shall not be held responsible.

(4) The Commissioner shall forward a copy of the order under Sub-section (3) with the reasons for the same, by registered post to the trustee or person concerned.

(5) The trustee or other person aggrieved by such order may, within thirty days of the receipt by him of the order, either—

(a) apply to the Court to modify or set aside the order and the Court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or

(b) in *lieu* of such application may appeal to the Government who shall pass such orders as they think fit.

(6) Neither the Court nor the Government to which or to whom an application or appeal is made under Sub-section (5) shall have power to stay the operation of the order pending the disposal of the application or appeal.

(7) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(8) The Collector of the district in which is situated any property of the trustee or other person from whom an account is recoverable by way of surcharge shall, on a requisition made by the Commissioner, recover such amount as if it were an arrear of land revenue and pay the same to the religious institution concerned.

75. Chapter to apply notwithstanding provision in scheme.— The provisions of this Chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act.

CHAPTER VIII

FINANCE.

76. Religious institutions, to pay an annual contribution to the Government.— (1) In respect of the services rendered by the Government and their officers, every religious institution shall, from the income derived by it, pay to the Government annually such contribution not exceeding five per centum of its income as may be prescribed.

(2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under Sub-section (1), is not less than one thousand rupees, shall pay to the Government annually, for meeting the cost of

auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.

(3) The annual payments referred to in Sub-sections (1) and (2) shall be made, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act for the religious institution concerned.

(4) The Government shall pay the salaries, allowances, pensions and other beneficial remuneration of the Commissioner, Deputy Commissioners, Assistant Commissioners and other officers and servants (other than Executive Officers of religious institutions) employed for the purposes of this Act and the other expenses incurred for such purposes, including the expenses of Area Committees and the cost of auditing the accounts of religious institutions.

77. Recovery of costs and expenses incurred on legal proceedings.- All costs, charges and expenses incurred by the Government, the Commissioner, Deputy Commissioner, an Area Committee or an Assistant Commissioner as a party to, or in connection with, any legal proceeding in respect of any religious institution shall be payable out of the funds of such institution, except in cases where a liability to pay the same has been laid on any party or other person personally and the right to reimbursement under this section has been negatived in express terms.

78. Assessment and recovery of contributions and costs and expenses.- (1) The contributions, costs and expenses payable under Sections 76 and 77 shall be assessed on and notified to the trustee of the religious institution concerned in the prescribed manner.

(2) (a) Such trustee may, within fifteen days from the date of the receipt of such notice or within such further time as may be granted by the Commissioner, prefer his objection thereto, if any, to the Commissioner in writing. Such objection may relate either to his liability to pay or to the amount specified in the notice. The Commissioner shall consider such objection and give his decision confirming, withdrawing or modifying his original notice.

(b) Within one month from the date of receipt of the notice of assessment, or when objection has been preferred, within one month from the date of the decision of the Commissioner, or within such further time as may be granted by him, such trustee shall pay the amount specified in the original notice or the amount as fixed by the Commissioner on objection.

(3) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the district in which any property of the religious institution is situated shall, on requisition made to him in the prescribed manner by the Commissioner and subject to the provisions of this section recover such amount as if it were an arrear of land revenue.

(4) (a) On receipt of a requisition under Sub-section (3), the Collector shall issue a notice to the trustee concerned—

(i) requiring him, within fifteen days from the service thereof, to pay the amount mentioned in the requisition and specified in the notice; and

(ii) stating that on default, such amount will be recovered as if it were an arrear of land revenue.

(b) If, within the period of fifteen days aforesaid, the amount demanded is not paid, the Collector shall proceed to recover the amount specified in the notice (with the charges of collection) as if it were an arrear of land revenue.

(5) The Collector shall, on receipt of a requisition under Sub-section (3), withhold the amount mentioned therein out of the tasdik or any other allowance payable by the Government to the religious institution concerned, but where the tasdik or other allowance is insufficient for the

purpose, the Collector shall withhold the amount available, and recover the balance as if it were an arrear of land revenue.

(6) Places of worship, including temples and tanks and places where utsavams are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of Sub-secs. (3), (4) and (5).

(7) Instead of selling the property after attachment thereof under the provisions of the Madras Revenue Recovery Act, 1864, it shall be open to the Collector at the instance of the Commissioner to appoint a Receiver to take possession of the property of such portion thereof as may be necessary and collect the income thereof until the amount sought to be recovered is realized. The remuneration, if any, paid to the Receiver, and the other expenses incurred by him shall be paid out of the income of the institution concerned.

(8) No suit, prosecution or other legal proceeding shall be entertained in any Court of law against the Government or any officer or servant of the Government for anything done or intended to be done in good faith in pursuance of this section.

79. Contribution not to be levied for more than three faslis immediately preceding the fasli in which a notice of assessment is issued.-(1) It shall not be competent for the Commissioner to levy any contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under Section 78.

(2) Nothing in this section shall affect any levy of contribution made or moneys collected by the Board before the commencement of the Madras Hindu Religious Endowments (Amendment) Act, 1946.

CHAPTER IX

THE TIRUMALAI-TIRUPATI DEVASTHANAMS.

80. Application of Act to Tirumalai-Tirupati Devasthanams.-(1) The provisions of this Chapter shall apply to the Tirumalai-Tirupathi Devasthanams.

(2) Sections 58 and 63 to 69 of this Act shall not apply to the Devasthanams.

(3) The order provisions of this Act shall apply to the Devasthanams as if they constituted a single religious institution included in the list published under Section 38 and subject to the following modifications, namely:-

(a) There shall be a Board of Trustees constituted for the Devasthanams consisting of five persons appointed by the Government; and any person so appointed shall hold office for a term of five years unless in the meanwhile he is removed or his resignation is accepted by the Government or he otherwise ceases to be a trustee.

(b) The Government shall also appoint a salaried Executive Officer for the Devasthanams, and shall have power to suspend, remove or dismiss him from office.

(c) All powers and duties assigned by the provisions aforesaid to a Deputy or an Assistant Commissioner shall be deemed to have been assigned to the Commissioner instead.

(4) The provisions of this Act shall apply to every specific endowment attached either to the Devasthanams as a whole or to any temple or institution thereof as if all powers and duties assigned therein to a Deputy or an Assistant Commissioner had been assigned to the Commissioner instead.

81. Qualification of Executive Officer and payment of salary, allowances, etc.-(1) The Executive Officer shall be a person professing the Hindu religion.

(2) If the Executive Officer is an officer in the service of the Government, the Devasthanams shall pay his salary, allowances and such contributions towards his pension, provident fund and leave allowances as may be required under the rules prescribed by the Government in this behalf.

82. Powers and duties of Executive Officer.— Subject to such reservations as may be laid down by the Government and to the general control of the Board of Trustees, the Executive Officer—

(a) shall have power to manage the properties and affairs of the Devasthanams;

(b) shall be responsible for the proper custody of all the records and of all the jewels, valuables, moneys, funds and other properties of the Devasthanams;

(c) shall arrange for the proper collection of the income and for the incurring of expenditure; and

(d) may, in cases of emergency, direct the execution of any work or the doing of any act which is not provided for in the budget for the year and the immediate execution or the doing of which is, in his opinion, necessary for the preservation of the properties of the Devasthanams or for the service or safety of the pilgrims resorting thereto; and may direct that the expenses of executing such work or the doing of such act shall be paid from the funds of the Devasthanams.

The Executive Officer shall report forthwith to the Board of Trustees any action taken by him under clause (d) and the reasons therefor.

83. Appointment and punishment of office-holders and servants by Executive Officer in certain cases.— (1) The powers of appointment and punishment conferred on a trustee by Sections 48 and 49 shall, in respect of the office-holders and servants of the Devasthanams, be exercised by the Executive Officer subject to such restrictions and conditions, if any, as may be laid down by the Government.

(2) Any person affected by an order of the Executive Officer acting in pursuance of the powers conferred on him by Sub-section (1) may, within one month from the date of the receipt of the order by him, appeal to the Board of Trustees.

(3) Within one month from the date of receipt by him of the order of the Board of Trustees, the office-holder or servant may appeal to the Commissioner.

84. Application of Madras village Panchayats Act and other enactments to Tirumalai Hills area.— (1) The Government may, by notification in the *Fort St. George Gazette*, declare that any of the provisions of the Madras Village Panchayats Act, 1950, or of the Madras Public Health Act, 1939, or of any rules made under those Acts, shall be extended to, and be in force in, the Tirumalai Hills area as notified by the Government in the *Fort St. George Gazette* from time-to-time.

(2) The provisions so notified shall be construed with such modifications not affecting the substance as may be necessary or proper for the purpose of adapting them to the Tirumalai Hills area.

(3) Without prejudice to the generality of the foregoing provision—

(i) the Tirumalai Hills area shall be deemed to be a village for the purposes of the Madras Village Panchayats Act, 1950, and a local area for the purposes of the Madras Public Health Act, 1939;

(ii) all references to a panchayat, or the president, Executive Officer or executive authority thereof in the Madras Village Panchayats Act, 1950, and all references to a local authority, executive authority or Executive Officer in the Madras Public Health Act, 1939, shall,

subject to the provisions of Clauses (iii) and (iv), be construed as references to the Executive Officer, in the Tirumalai Hills area;

(iii) any appeal provided for by or under the Madras Village Panchayats Act, 1950, from an order or decision of the president, executive authority or Executive Officer of a panchayat to the panchayat shall lie instead to the Inspector of Municipal Councils and Local Boards;

(iv) any appeal provided for by or under the Madras Public Health Act, 1939, from an order or decision of the executive authority or Executive Officer of a local authority to the local authority shall lie instead to the Director of Public Health.

(4) (a) The Government may, by notification in the *Fort St. George Gazette*, authorize the Executive Officer to levy tolls, in the prescribed manner in respect of any road, including the ghat road leading to Tirumalai from Tirupati which has been or shall hereafter be constructed entirely from the funds of the Devasthanams and situated within the Tirumalai Hills area as notified under Sub-section (1), at such rates and for such period as may be specified in the notification.

(b) The Executive Officer may—

(i) place the collection of such tolls under the management of such persons as may appear to him proper, or

(ii) farm out such collection on such terms and conditions as he may think fit.

(c) The provisions of Sections 3 to 7 of the Indian Tolls Act, 1851, as in force for the time being in the State of Madras, shall apply to the collection of such tolls and the persons under whose management the collection of such tolls may be placed, as well as the persons to whom such collections may be framed out and their agents and servants shall be deemed to be persons appointed to collect tolls within the meaning of that Act.

85. Purposes for which Devasthanam funds may be used.— The funds of the Devasthanams may be utilized for any purpose permitted by any other provision of this Act and also for all or any of the following purposes:—

(i) The maintenance, management and administration of the Devasthanams;

(ii) The maintenance of the educational institutions referred to in Schedule III;

(iii) The foundation and maintenance of hospitals and dispensaries for the relief of the pilgrims and worshippers visiting the temple;

(iv) The construction and maintenance of choultries and rest-houses for the use and accommodation of all classes of pilgrims;

(v) The provision of water-supply and other sanitary arrangements to the pilgrims;

(vi) The establishment and maintenance of a veterinary hospital for the animals of the Devasthanams;

(vii) The acquisition of any land or other immovable property for the purposes of the Devasthanams, provided the acquisition is authorized by the Government;

(viii) The construction and maintenance of roads and communications and the lighting thereof for the convenience of the pilgrims and worshippers;

(ix) The training of archakas to perform the religious worship and ceremonies in the Devasthanams, and the training of adhyapakas and vedaparyanikas; and

(x) any work or undertaking for the purposes of the Devasthanams, authorized by the Government, so long as such authorization subsists.

CHAPTER X. MISCELLANEOUS.

86. Public officers to furnish copies of or extracts from certain documents.- All public officers having custody of any record, register, report or other document relating to a religious institution or any movable or immovable property thereof shall furnish such copies of or extracts from the same as may be required by the Commissioner, a deputy Commissioner, an Area Committee, or an Assistant Commissioner.

87. Putting trustee or Executive Officer in possession.- Where a person has been appointed—

(a) as trustee or Executive Officer of a religious institution, or
(b) to discharge the functions of a trustee of a religious institution in accordance with the provisions of this Act, or

(c) as manager under Section 56 or in any scheme framed by the Board before the commencement of this Act, and such person is resisted in, or prevented from, obtaining possession of the religious institution or of the records, accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant, not being a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee, office-holder or servant, any Magistrate of the first class in whose jurisdiction such institution or property is situated shall, on application by the person so appointed, and on the production of the order of appointment and where the application is for possession of property, of a certificate by the Commissioner in the prescribed form setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts and properties thereof, as the case may be:

Provided however that before issuing any such certificate in respect of any property, the Commissioner shall give notice to the trustee, office-holder or servant of the religious institution, as the case may be, of his intention to issue the certificate and consider the objections, if any, of such trustee, office-holder or servant:

Provided also that for the purpose of proceedings under this section, the certificate aforesaid shall be conclusive evidence that the properties to which it relates belong to the religious institution:

Provided further that nothing contained in this section shall have the effect of instituting a suit by any person aggrieved by an order under this section for establishing his title to the said property.

Explanation.- A person claiming under an alienation contrary to the provisions of Sections 29 or 35 shall not be regarded as a person claiming in good faith within the meaning of this section.

88. Costs of proceedings, etc.- (1) The costs, charges and expenses of and incidental to any suit, appeal or application to a Court under this Act shall be in the discretion of the Court, which may, subject to the provisions of Section 77, direct the whole or any part of such costs, charges and expenses to be met from the property or income of the religious institution or endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

(2) The costs, charges and expenses of and incidental to any appeal, application or other proceeding before the Commissioner or a Deputy Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what funds and to what extent such costs,

charges and expenses are to be paid; and the order passed in this regard may be transferred for execution to the Court and shall be executed by the Court as if the order had been passed by itself if and in so far as the Court considers the order to be a reasonable one.

89. Penalty for refusal by trustee to comply with provisions of Act.- (1) If any trustee [including the Executive Officer or other person in whom the administration of a religious institution is vested] or any agent of, or person working under the trustee—

(a) refuses, neglects or fails to comply with the provisions of Section 25 or Section 26, or

(b) refuses, neglects or fails to furnish such accounts, returns, reports or other information relating to the administration of the religious institution or its funds, property or income or the application thereof, at such time and in such manner as the Commissioner, Deputy Commissioner, Area Committee or Assistant commissioner may require, or

(c) refuses to permit, or cause obstruction to, inspection by the Commissioner, a Deputy Commissioner, a member of an Area Committee duly authorized in this behalf or an Assistant Commissioner, of any movable or immovable property belonging to, or of any records, correspondence, plans, accounts and other documents relating to, the religious institution, or neglects or fails to produce them for inspection, the trustee, or where there is more than one trustee, each of the trustees shall be punishable with fine which may extend to two hundred rupees; and in case the act or default complained of continues for more than one month with a further fine which may extend to one hundred rupees for every week or part thereof during which the act or default so continues.

(2) No Court shall take cognizance of an offence punishable under Sub-section (1) except the complaint in writing of the Commissioner.

(3) No offence punishable under Sub-section (1) shall be inquired into or tried by any Court inferior to that of a Magistrate of the first class.

(4) The Commissioner may accept from any trustee who has committed or is reasonably suspected of having committed any of the offences referred to in Sub-section (1), by way of composition of such offence, a sum of money not exceeding one thousand rupees.

(5) Any fine imposed under Sub-section (1) or any money payable by way of composition under Sub-section (4) shall be paid by the trustee from his own funds and not from the funds of the religious institution concerned.

90. Court-fees to be paid as prescribed by Schedule I.- Notwithstanding anything contained in the First or the Second Schedule to the Court fees Act, 1870, the proper fees for the documents described in columns (1) and (2) of Schedule I shall be the fees indicated in column (3) thereof.

91. Saving.- Nothing contained in this Act shall—

(a) save as otherwise expressly provided in or under this Act, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution, or its established usage in regard to any other matter; or

(b) authorize any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service.

92. Act not to affect rights under Article 26, Clauses (a) to (c) of the Constitution.- Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution.

93. Bar of suits in respect of administration or management of religious institution, etc.- No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of law, except under, and in conformity with, the provisions of this Act.

94. Property of religious institutions not to vest under the law of limitation after commencement of this Act.- Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor-in-title before the commencement of this Act.

95. Procedure and powers at inquiries under Chapters V and VI.- (1) Where a Commissioner or a Deputy Commissioner makes an inquiry or hears an appeal under Chapter V or Chapter VI, the inquiry shall be made and the appeal shall be heard, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits or the hearing of appeals, as the case may be.

(2) The provisions of the Indian Evidence Act, 1872, and the Indian Oaths Act, 1873, shall apply to such inquiries and appeals.

(3) The Commissioner or a Deputy Commissioner holding such an inquiry or hearing such an appeal shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850.

96. Notifications, orders, etc., under Act not to be questioned in Court of law.- Save as otherwise expressly provided in this Act, no notification or certificate issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the Government, the Commissioner or a Deputy Commissioner, an Area Committee, or an Assistant Commissioner, shall be liable to be questioned in any Court of law.

97. Budget, audit report, etc., to be submitted to Area Committee through Assistant Commissioner.- Any budget, audit report, accounts, reports or other documents and any information required to be submitted to, or called for by, an Area Committee in respect of an institution subject to its jurisdiction, and all communications intended for an Area Committee shall be sent to the Assistant Commissioner concerned and shall be placed by him before the Committee at its next meeting, together with his remarks or recommendations thereon, if any.

98. Power of Assistant Commissioner to act for Area Committee in an emergency.- The Assistant Commissioner may, in cases of emergency, direct the doing of any act which would ordinarily have to be done by the Area Committee, if the immediate doing of such act is, in his opinion, necessary in the interests of a religious institution:

Provided that the Assistant Commissioner shall not act under this section in contravention of any order of the Area Committee prohibiting the doing of any particular act:

Provided further that he shall report the action taken under this section and the reasons therefor to the Committee at its next meeting; and the Committee may annul, modify or reverse the order passed by the Assistant Commissioner.

99. Power of Government to call for records and pass orders.- (1) The Government may call for and examine the record of the Commissioner or any Deputy or Assistant Commissioner, of any Area Committee or of any trustee in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any

decision or order passed therein; and, if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that the government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under Sub-section (1) in respect thereof.

100. Power to make rules.- (1) The Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, they shall have power to make rules with reference to the following matters:-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form and manner in which applications and appeals should be submitted to the Government, the Commissioner, or a Deputy or an Assistant Commissioner;

(c) the powers of the Government, the Commissioner, or a Deputy or an Assistant Commissioner to hold inquiries, to summon and examine witnesses and to compel the production of documents;

(d) the inspection of documents and the fees to be levied for such inspection;

(e) the fees to be levied for the issue and service of processes and notices;

(f) the grant of certified copies and the fees to be levied therefor;

(g) the budgets, reports, accounts, returns or other information to be submitted by trustees;

(h) the convening of meetings of trustees and the quorum for, and the conduct of business at, such meetings;

(i) the manner in which the opinions of trustees shall be ascertained otherwise than at meetings;

(j) the proper collection of the income of and the incurring of expenditure by, religious institutions;

(k) the custody of the moneys of religious institutions, their deposit in, and withdrawal from, banks, and the investment of such moneys;

(l) the custody of jewels and other valuables and documents of religious institutions;

(m) the manner in which and the period for which leases of properties of religious institutions shall be made ;

(n) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and the form and contents of the auditor's report;

(o) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied;

(p) the security, if any, to be furnished by officers and servants employed for the purposes of this Act;

(q) the preservation, maintenance, management, and improvement of the properties and buildings of religious institutions;

(r) the inspection and supervision of the properties and buildings of religious institutions, the reports to be submitted by persons making such inspection and supervision and the fees leviable for such inspection, supervision and report;

(s) the preservation of the images in temples;

(t) the grant of travelling and halting allowances to the members of the Area Committees or to the trustees;

(u) the preservation and sanction of the estimates and acceptance of tenders, in respect of public works and for supplies in religious institutions including the Tirumalai-Tirupati Devasthanams;

(v) the levy of tolls on roads constructed entirely from the funds of the Tirumalai-Tirupati Devasthanams and situated within the Tirumalai Hills area and the collection thereof;

(w) the delegation by the Executive Officer of the Tirumalai-Tirupati Devasthanams of his powers, functions and duties to any officer or servant of the Devasthanams and the restrictions, limitations and conditions subject to which such delegation shall be made;

(x) the qualifications, method of recruitment, pay, grant of leave, leave allowance and travelling allowance, personal conduct and punishment, of—

(i) officers and servants constituting the establishment of the Tirumalai-Tirupati Devasthanams;

(ii) Executive Officers appointed for religious institutions under any provision of this Act or in pursuance of any scheme settled or deemed to be settled thereunder;

(y) the qualifications to be possessed by the officers and servants for appointment to non-hereditary officers in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants;

(z) the grant of pensions or gratuities to officers and servants of the Board who retired before the commencement of this Act; and

(aa) the grant of gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the commencement of this Act,

(3) The power to make rules under this section shall be subject to the condition of previous publication.

CHAPTER XI.

TRANSITIONAL.

101. Abolition of Board and devolution of its assets and liabilities.— On and from the date on which this Act comes into force, the Board shall cease to exist, and all its assets and liabilities shall devolve on the Government.

102. Construction of reference to the Board President or Commissioner.— Any reference to the Board or its President or a Commissioner thereof contained in any enactment in force in the State of Madras or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the State, shall, on and from the commencement of this Act, be construed as a reference to the Commissioner appointed under this Act.

103. Effect of repeal of the Madras Hindu Religious Endowments Act, 1926.— Notwithstanding the repeal of the Madras Hindu Religious Endowments Act, 1926 (hereinafter in this section referred to as the said Act.) —

(a) all rules made, notifications or certificates issued, orders passed, decisions made, proceedings or action taken, schemes settled and things done by the Government, the Board or its President or by an Assistant Commissioner under the said Act, shall, in so far as they are not inconsistent, with this Act, be deemed to have been made, issued; passed, taken, settled or done by the appropriate authority under the corresponding provisions of this Act and shall, subject to the provisions of clause (b), have effect accordingly;

Explanation.- Certificates issued by the Board under Section 78 of the said Act shall be deemed to have been validly issued under that section, notwithstanding that the certificates were issued before the making of rules prescribing the manner of their issue.

(b) if the Government are satisfied that any such rule, notification, certificate order, decision, proceeding, action, scheme, or thing, although not inconsistent with his Act would not have been made, issued, passed, taken, settled or done, or would not have been made, issued, passed, taken, settled or done in the form adopted, if this Act has been in force at the time, they shall have power, by order made at any time within one year from the commencement of this Act, to cancel or to modify in such manner as may be specified in the order, the said rule, notification, certificate, order, decision, proceeding, action, scheme or thing, and thereupon, the same shall stand cancelled or modified as directed in the said order, with effect from the date on which it was made or from such later date as may be specified therein:

Provided that before making any such order, the Government shall publish in the *Fort St. George Gazette* a notice of their intention to do so, fix a period which shall not be less than two months from the date of the publication of the notice for the persons affected by the order to show cause against the making thereof and consider their representations, if any;

(c) a notification published in respect of any religious institution under Section 65-A, Sub-section (3) or Sub-section (5), of the said Act and in force immediately before the commencement of this Act shall be deemed to be a notification published under Section 64 of this Act and shall be in force five years from the commencement of this Act;

Explanation.- The scheme of administration, if any, settled for the religious institution and the rules, if any, framed under such scheme which ceased to apply to the institution under Section 65-B of the said Act shall not be deemed to be revived by reason of the cancellation of the notification under Section 64, Sub-section (4), or by section of its having ceased to be in force by efflux of time.

(d) all schemes settled or modified by a Court of law under the said Act or under Section 92 of the Code of Civil Procedure, 1908, shall be deemed to have been settled or modified by the Court under this Act and shall have effect accordingly;

(e) in any schemes settled or deemed to have been settled under the said Act (including a scheme settled under Section 92 of the Code of Civil Procedure, 1908) and in force immediately before the commencement of this Act—

(i) all powers conferred and all duties imposed by such scheme on one or more trustees, whether hereditary or non-hereditary, shall be exercised, subject to the restrictions and conditions, if any, specified in the scheme by the trustee or trustees appointed for the religious institution under this Act;

(ii) all powers conferred and all duties imposed by such scheme on any Court or Judge or any other person or body of persons not being a trustee or trustees or a paid or an honorary officer or servant of the religious institution, shall be deemed to have been conferred or imposed on the Area Committee if the institution is subject to the jurisdiction of such a Committee and on the Commissioner, in other cases; and the Area Committee or the Commissioner, as the case may be, shall exercise such powers and discharge such duties in accordance with the provisions of the scheme subject to such restrictions and conditions, if any, specified in the scheme;

(f) all orders made under Section 67 of the said Act shall, notwithstanding that they are inconsistent with this Act, continue in force, but any such order may at any time be modified or cancelled by the Deputy Commissioner if it is an order made under Sub-section (1) or Sub-

section (3) of that section and by the Commissioner if it is an order made under Sub-section(4) or Sub-section (5) of that Section; and any person aggrieved by any modification or cancellation made by the Deputy Commissioner may appeal to the Commissioner within such time as may be prescribed;

(g) all by-laws made by the Board under the said Act shall, in so far as they are not inconsistent with this Act, be deemed to be orders issued by the Commissioner under this Act;

(h) all proceedings pending before the Government or the Board or its President or an Assistant Commissioner under the provisions of the said Act at the commencement of this Act, may, in so far as they are not inconsistent with the provisions of this Act, be continued by the appropriate authority under this Act;

(i) all costs, expenses, charges, penalties, and contributions payable to the Board under the said Act immediately before the commencement of this Act, shall be payable to the Government instead, and any assessment, levy or demand of such sums made before the commencement of this Act shall be deemed to be valid and may be continued and shall be enforceable under this Act;

(j) all suits, applications or proceedings taken by, or on behalf of, or against, the Board under the provisions of the said Act and pending at the commencement of this Act, may be continued by, or on behalf of, or against, the Commissioner subject to the provisions of, and in so far as they are not inconsistent with, this Act;

Explanation.- All suits and applications instituted under the said Act in the High Court in respect of religious institutions situated within the presidency-town and pending on the date of the commencement of this Act, which would have been instituted in the Madras City Civil Court if this Act had been in force at the time when such suit or applications were instituted shall be continued in, and disposed of by, the High Court.

(k) any remedy by way of application, suit, or appeal which is provided by this Act shall be available in respect of proceedings under the said Act pending at the commencement of this Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

104. Position of the President, Commissioners, etc., of Board after commencement of this Act.- (1) On the coming into force of this Act, such members of the Board including the President and such of its subordinates as the Government may consider suitable, may be appointed by the Government in their discretion to any offices provided for in this Act to which they may be deemed qualified; and the services of the rest shall be deemed to have been terminated.

(2) The conditions of service of persons so appointed shall be regulated by rules made by the Government from time to time as if they had entered the service of the Government on the date of their first entertainment as a member of the Board or as its subordinate, as the case may be.

(3) To those not so appointed, the Government may accord such relief by way of pension, gratuity, provident fund or leave with allowances as they may in their discretion deem fit.

(4) No Court shall entertain any suit or application for damages or compensation by any member of the Board or any of its subordinates affected by Sub-section (1) or for the variation of the relief, if any, granted under Sub-section (3).

105. Effect of repeal of Tirumalai-Tirupati Devasthanams Act, 1932.- (1) Notwithstanding the repeal of the Tirumalai-Tirupati Devasthanams Act, 1932 (hereinafter referred to as the Devasthanams Act)—

(a) all rules or by-laws made, notifications issued, orders passed, decisions made, proceedings or action taken and things done by the Government, the Board of the Committee constituted under Chapter II of the Devasthanams Act or the Commissioner appointed under Section 18 of that Act or by any of the Advisory Councils appointed under that Act, shall, in so far as they are not inconsistent with this Act be deemed to have been made, issued, passed, taken or done by the appropriate authority under the corresponding provisions of this Act and shall have effect accordingly;

(b) all proceedings pending before the Government, the Board, the Committee or the Commissioner under the provisions of the Devasthanams Act at the commencement of this Act may, in so far as they are not inconsistent with the provisions of this Act, be continued by the appropriate authority under this Act;

(c) all suits, applications or proceedings taken by, or on behalf of, or against, the Committee or the Commissioner under the provisions of the Devasthanams Act may be continued by, or on behalf of, or against, the Board of Trustees or the Executive Officer, as the case may be, of the Devasthanams, subject to the provisions of, and in so far as they are not inconsistent with this Act.

(d) any remedy by way of application or appeal which is provided by this Act shall be available in respect of proceedings under the Devasthanams Act pending at the commencement of this Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

(2) Any reference to the Committee, constituted under the Devasthanams Act or the Commissioner appointed under that Act, in any enactment in force in the State of Madras or in any notification, order, rule, form or by-law made under any such enactment and in force in the State, shall on and from the commencement of this Act, be construed as a reference to the Board of Trustees or the Executive Officer of the Devasthanams under this Act.

(3) The undertaking by the Tirumalai-Tirupati Devasthanams Committee constituted under the Devasthanams Act, of the functions of a licensee under the Tirumalai-Tirupati Devasthanams Electrical Licence, 1932, shall be deemed to have been authorized by the Government within the meaning of clause (x) of Section 85 of this Act and all expenditure incurred from the funds of the Devasthanams before the commencement of this Act for the performance of such functions is hereby validated.

106. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE I.

[See Section 90.]

Court-fees payable for documents.

<i>Section.</i>	<i>Description of documents.</i>	<i>Proper fee.</i>
(1)	(2)	(3)
	<i>I. Suits.</i>	Rs.
52	Suit for removal of trustee of math or specific endowment attached to math ..	50
62	Suit against order of the Commissioner ..	50
	<i>II. Applications to Court.</i>	
62 (3)(a)	Application to Court to modify or cancel a scheme settled or modified or deemed to have been settled or modified by the Court. ..	50
74(5)	Application to Court against order of surcharge ..	20
87	Application for delivery of possession ..	2
	<i>III. Appeals to Court.</i>	
62(2)	Appeal to High Court ..	50
62(3) (b)	" ..	50
	<i>IV. Applications to Government, Commissioner or Deputy Commissioner.</i>	
18	Application to Commissioner for revision ..	10
32(1)	Application by trustee for recovery from person in possession of property of specific endowment. ..	2
32(2)	Application by person in such possession for recovery from person responsible in law for performance of service or charity. ..	2
52(1)	Application to Commissioner for consent to suit for removal of trustee of math or specific endowment attached to math. ..	10
57	Application for decision of dispute or matter under the section. ..	15
58(1)	Application for settlement of scheme ..	50
58(6)	Application to modify or cancel scheme settled under Section 58(1) or deemed to have been so settled. ..	25
59(1)	Application for order under the section ..	25
59(2)	Application to modify or cancel order passed under Section 59(1) or deemed to have been so passed. ..	25
61(2)	Application to commissioner to modify or cancel order passed under Section 61(1) or deemed to have been so passed. ..	25
64(4)	Application to Government to modify or cancel notification of religious institution under Chapter VI. ..	25
99	Application of government for revision ..	25
103(f)	Application for modification or cancellation of order under Section 67 of the Madras Hindu Religious Endowments Act, 1926. ..	25
	<i>V. Appeals to Government, Commissioner, Deputy Commissioner or trustee.</i>	
19(5)	Appeal to Government against order of Commissioner ..	20
29(4)	Appeal to Government against order of Commissioner regarding alienation of property. ..	15

<i>Section.</i>	<i>Description of documents.</i>	<i>Proper fee.</i>
(1)	(2)	(3) Rs.
31(2)	Appeal to Commissioner under the section ..	25
32(3)	Appeal to Commissioner against order of Deputy Commissioner directing recovery under Section 32(1) or (2). ..	5
45(5)	Appeal to commissioner by trustee against order of punishment passed by Deputy Commissioner. ..	25
	Appeal to Government against order of punishment passed by Commissioner. ..	25
46(4)	Appeal to Commissioner against order of Deputy Commissioner under Section 46 (2) or (3) ..	25
47(4)	Appeal to Commissioner against order of Deputy Commissioner appointing temporary successor to hereditary trustee. ..	25
48(4)	Appeal to Deputy Commissioner against order of trustee under Section 48(3). ..	2
49(2)	Appeal to Deputy Commissioner by office-holder or servant against order of punishment passed by a trustee. ..	2
49(3)	Appeal to Commissioner by hereditary office-holder or servant against appellate order of Deputy Commissioner. ..	2
51(4)	Appeal to Deputy Commissioner against order of Area Committee regarding <i>dittam</i> . ..	20
52(2)	Appeal to Government against Commissioner's refusal to give consent. ..	20
61 (1)	Appeal to Commissioner against order of Deputy Commissioner under Chapter V. ..	25
70(4)	Appeal to Deputy Commissioner against order of Area Committee regarding budget. ..	10
74(5)	Appeal to Government against order of surcharge ..	20
83(2)	Appeal to the Board of Trustees by office-holder or servant against order of punishment by Executive Officer. ..	2
83(3)	Appeal to commissioner by office-holder or servant against appellate order of the Board of Trustees. ..	2
103(f)	Appeal to commissioner under the section ..	25

SCHEDULE II.*[See Section 6(18.)]**List of Tirumalai-Tirupati Devasthanams.*

I. The temple of Sri Venkateswaraswami on Tirumalai Hill with the sub-temples of—

- | | |
|---|--|
| (1) Sri Varahaswami. | (4) Sri Kshetrapalaka. |
| (2) Sri Bhashyakarlu No. 1 (within the pagoda). | (5) Sri Dova Bhashyakarlu, and |
| (3) Sri Bedi-Hanumantharayaswami. | (6) Sri Anjaneyaswami (in front of Sri Varahaswami). |

II. The temple of Sri Govindarajaswami at Tirupati with the sub-temples of—

- | | |
|-----------------------------------|----------------------------|
| (1) Sri Saley Nacharamma, | (8) Sri Manavala Mahamuni, |
| (2) Sri Choodikodutta Nacharamma, | (9) Sri Nammalwar, |

- | | |
|---|-------------------------------|
| (3) Sri Modal Alwar, | (10) Sri Vedanta Desikulu, |
| (4) Sri Chakrath Alwar, | (11) Sri Woolu Alwar, |
| (5) Sri Madhurakavi Alwar, | (12) Sri Tirumala Nambi, |
| (6) Sri Anjaneyaswami (near Dhwas-
thambam), | (13) Sri Tirumangai Alwar, |
| (7) Sri Anjaneyaswami (near Pedda
Bugga). | (14) Sri Bhashyakarlu No. II, |
| | (15) Sri Kurath Alwar, and |
| | (16) Sri Sanjeevaroyaswami |

III. The temple of Sri Kothandaramaswami at Tirupati.

IV. The temple of Sri Kapileswaraswami at Tirupati.

V. Sri Padmavathi's temple at Tiruchanur with the sub-temples of—

- (1) Sri Krishnaswami,
- (2) Sri Suryanarayanawami, and
- (3) Sri Sundararajaswami.

VI. Any other minor temple attached to any of the above temples and not specifically mentioned above.

SCHEDULE III.

[See Section 6(18).]

*List of educational institutions maintained from the funds of the
Tirumalai-Tirupati Devasthanams*

- (1) Devasthanam Hindu High School, Tirupati.
- (2) Sri Mahant Devasthanam Hindu High School, Vellore.
- (3) Sri Venkateswara Vedapatasala, Tirupati.
- (4) Sri Venkateswara Ayurvedic College, Tirupati.
- (5) Sri Venkateswara Sanskrit College, Tirupati.
- (6) Sri Venkateswara Arts College, Tirupati.
- (7) The Oriental Institute, Tirupati.

**THE TAMIL NADU HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS ACT, 1959.
(Tamil Nadu Act 22 of 1959)
AND ITS AMENDING ACTS AT A GLANCE.**

1959

1. The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959).

1961

2. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1961 (Tamil Nadu Act 12 of 1961).
3. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1961 (Tamil Nadu Act 40 of 1961).

1965

4. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1965 (Tamil Nadu Act 16 of 1965).
5. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1965 (Tamil Nadu Act 31 of 1965).

1967

6. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1967 (Tamil Nadu Act 23 of 1967).

1968

7. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1968.

1969

8. The Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

1970

9. The Adaptation of Laws Order, 1970.

1971

10. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970 (Tamil Nadu Act 2 of 1971).

1972

11. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1972 (Tamil Nadu Act 29 of 1972).

1973

12. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1973 (Tamil Nadu Act 22 of 1973).

1974

13. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1973 (Tamil Nadu Act 5 of 1974).
14. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1974 (Tamil Nadu Act 26 of 1974).
15. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1974 (Tamil Nadu Act 27 of 1974).

1974(Contd.)

16. The Tamil Nadu Hindu Religious and Charitable Endowments (Fourth Amendment) Act, 1974 (Tamil Nadu Act 28 of 1974).
17. The Tamil Nadu Hindu Religious and Charitable Endowments (Fifth Amendment) Act, 1974 (Tamil Nadu Act 46 of 1974).
18. The Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1974 (Tamil Nadu Act 50 of 1974).

1975

19. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1975 (Tamil Nadu Act 6 of 1975).

1976

20. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment and Special Provisions) Act, 1976 (President's Act 24 of 1976).

1978

21. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1978 (Tamil Nadu Act 42 of 1978).

1983

22. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1983 (Tamil Nadu Act 48 of 1983).

1987

23. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1986 (Tamil Nadu Act 2 of 1987).
24. The Tamil Nadu Adaptation of Law and Order, 1987.

1991

25. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1991 (Tamil Nadu Act 46 of 1991).

1992

26. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1992 (Tamil Nadu Act 38 of 1992).

1993

27. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1993 (Tamil Nadu Act 18 of 1993).
28. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1993 (Tamil Nadu Act 19 of 1993).

1994

29. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1994 (Tamil Nadu Act 39 of 1994).

1995

30. The Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 1994 (Tamil Nadu Act 25 of 1995).
31. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1995 (Tamil Nadu Act 38 of 1995).

1996

32. The City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).
33. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1996 (Tamil Nadu Act 39 of 1996).

1998

34. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1998 (Tamil Nadu Act 37 of 1998).
35. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 1998 (Tamil Nadu Act 38 of 1998).

1999

36. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1999 (Tamil Nadu Act 52 of 1999).

2002

37. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 2002 (Tamil Nadu Act 50 of 2002).

2003

38. The Tamil Nadu Hindu Religious and Charitable Endowments (Second Amendment) Act, 2003 (Tamil Nadu Act 10 of 2003).
39. The Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 2003 (Tamil Nadu Act 25 of 2003).
40. The Tamil Nadu Hindu Religious and Charitable Endowments (Third Amendment) Act, 2003 (Tamil Nadu Act 28 of 2003).

THE RELIGIOUS ENDOWMENTS ACT, 1863.**[Act 20 of 1863]****CONTENTS**

Preamble.

SECTIONS

1. [Repealed]
2. Interpretation clause—"Civil Court" and "Court".
3. Government to make special provision respecting mosques, etc.
4. Transfer to trustees, etc., of trust property in charge of Revenue Board - Cessation of Board's powers as to such property.
5. Procedure in case of dispute as to right of succession to vacated trusteeship-Powers of managers appointed by Court.
6. Rights, etc., of trustees to whom property is transferred under Section 4.
7. Appointment of Committees - Constitution and duties of committees.
8. Qualifications of member of Committee - Ascertaining wishes of persons interested.
9. Tenure of office - Removal.
10. Vacancies to be filled - Procedure - When Court may fill vacancy.
11. No member of Committee to be also trustee, etc., of mosque, etc.
12. On appointment of Committee, Board and local agents to transfer property; Termination of powers and responsibilities of Board and commencement of powers of committee agents.
13. Duty of trustee, etc., as to accounts and of Committee.
14. Persons interested may singly sue in case of breach of trust, etc.
15. Nature of interest entitling person to sue.
16. Reference to arbitrators - Act 10 of 1940 applied.
17. Reference under Act 10 of 1940.
18. Application for leave to institute suits - Costs.
19. Court may require accounts of trust to be filed.
20. Proceedings for criminal breach of trust.
21. Cases in which endowments are partly for religious and partly for secular purposes.
22. Government not to hold charge henceforth of property for support of any mosque, temple, etc.
23. Effect of Act in respect of Regulations therein mentioned, and of buildings of antiquity, etc.
24. [Repealed.]

THE RELIGIOUS ENDOWMENTS ACT, 1863.*

[10th March, 1863]

An Act to enable the Government to divest itself of the management of religious endowments.

Preamble. – WHEREAS it is expedient to relieve the Boards of Revenue, and the local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX of 1810, of the Bengal Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Sarais, Kattras and other public buildings; and for the custody and disposal of Nazul Property or Escheats) and Regulation VII of 1817, of the Madras Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chattrams and other public buildings; and for the custody and disposal of Escheats), so far as those duties embrace the superintendence of lands granted for the support of mosques or Hindu temples and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of trustees or managers thereof; or involve any connection with the management of such religious establishments; ¹[***]. It is enacted as follows: –

State Amendments - [Andhra Pradesh]. – In its application to the State of Andhra, in the Preamble, for the words “Presidency of Fort St. George”, substitute “State of Andhra”. – Andhra Adaptation of Laws Order, 1953.

[Tamil Nadu]. – In its application to the added territories in the State of Tamil Nadu, in the Preamble, for the words “State of Andhra”, substitute “Presidency of Fort St. George.”- Tamil Nadu (Added Territories) Adaptation of Laws Order, 1961.

1. Repeal of parts of Bengal Regulation 19 of 1810 and Madras Regulation 7 of 1817. – *[Repealed by the Repealing Act, 1870 (14 of 1870), Section 1 and Schedule.]*

2. Interpretation clause. – In this Act, –

***Short title.** – “Religious Endowments Act, 1863. See the Indian Short Titles Act (XIV of 1897). This Act has been repealed in Tamil Nadu as to Hindu Religious Institutions and Endowments by the Tamil Nadu Hindu Religious and Charitable Endowments Act (XIX of 1951) and the Tamil Nadu Hindu Religious and Charitable Endowments Act (XXII of 1959), and in Orissa by the Orissa Hindu Religious Endowments Act, 1939.

This Act shall not apply to any religious trust in the State of Bihar – Bihar Act (1 of 1951).

The Act has been extended to Kanara by Bombay Act (VII of 1865), which was specially passed for that purpose. See Bom. Code.

The Act has been declared by Notifications under S.3(a) of the Scheduled Districts Act (XIV of 1874), to be in force in the following Scheduled Districts, namely:–

The Districts of Hazaribagh, Lohardaga (now in Ranchi District), and Manbhum and Pargana Dhalbhum; and the Kolhan in the District of Singhbhum; the Scheduled portion of the Mirzapur District; Jaunsar Bawar; the Scheduled District in Ganjam and Vizagapatam; Assam (except the North Lushai Hills).

It has been extended by Notification under S.5 of the Scheduled Districts Act, 1874, to the following Scheduled Districts, namely,– Kumaon and Garhwal, the Tarai of the Province of Agra and Ajmer and Merwara.

It has now been extended to the Union territory of Dadra and Nagar Haveli by Regulation (IV of 1963).

1. The words and figures “and whereas it is expedient for that purpose to repeal so much of Regulation 19 of 1810 of the Bengal Code, and Regulation 7, of 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindu Temples or other religious purposes” Repealed by the Repealing Act 16 of 1874, S.1 and Sch.

¹[***]¹[***]

“Civil Court” and “Court”. - The words “Civil Court” and “Court” shall ²[save as provided in Section 10] mean the principal Court of original civil jurisdiction in the district in which ²[or any other Court empowered in that behalf by the ³[State Government] within the local limits of the jurisdiction of which] the mosque, temple, or other religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

3. Government to make special provision respecting mosques, etc.- In the case of every mosque, temple, or other religious establishment to which the provisions of either of the Regulations specified in ⁴[the preamble to this Act] are applicable, and nomination of the trustee, manager or superintendent thereof, at any time of the passing of this Act, is vested in, or may be exercised by, the Government or any public officer, or in which the nomination of such trustee, manager, or superintendent shall be subject to the confirmation of the Government or any Public officer, the ³[State Government] shall, as soon as possible, after the passing of this Act, make special provision as hereinafter provided.

4. Transfer to trustees, etc., of trust property in charge of Revenue Board. - In the case of every such mosque, temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any trustee, manager or superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public officer, the ³[State Government] shall, as soon as possible after the passing of this Act, transfer to such trustee, manager or superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue or any local agent, and belonging to such mosque, temple or other religious establishment, except such property as is hereinafter provided;

Cessation of Board's powers as to such property. - and the powers and responsibilities of the Board of Revenue, and the local agents, in respect to such mosque, temple or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue or any local agent, previous to such transfer, shall cease and determine.

⁵[5. Procedure in case of dispute as to right of succession to vacated trusteeship. - Whenever from any cause a vacancy shall occur in the office of any trustee, manager or superintendent, to whom any property shall have been transferred under the last preceding section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the mosque, temple, or other religious establishment to which such property shall belong, or in the performance of the worship or of the service thereof, or the

1. The clauses relating to “number” and “gender” repealed by the Repealing and Amending Act 10 of 1914, S.3 and Sch. II.

2. Inserted by Act 21 of 1925.

3. Substituted by A.O., 1950.

4. Substituted for “Section 1” by the Repealing and Amending Act 12 of 1891.

5. Section 5 not to apply to wakfs to which Muslims Wakfs Act 29 of 1954 applies – *Vide* Section 69 of Act 24 of 1954.

trusts relating thereto, to apply to the civil Court to appoint a manager of such mosque, temple or other religious establishment, and thereupon such Court may appoint such manager to act until some other person shall by suit have established his right of succession to such office.

Powers of managers appointed by Court. - The manager so appointed by the civil Court shall have and shall exercise all the powers which, under this or any other Act, the former trustee, manager or superintendent, in whose place such manager is appointed by the Court, had or could exercise in relation to such mosque, temple, or other religious establishment, or the property belonging thereto.

6. Rights, etc., of trustees to whom property is transferred under Section 4. - The rights, powers and responsibilities of every trustee, manager or superintendent, to whom the land and other property of any mosque, temple or other religious establishment is transferred in the manner prescribed in Section 4 of this Act, as well as the conditions of their appointment, election and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue and local agents, given by the Regulations hereby repealed, over such mosque, temple, or other religious establishment, and over such trustee, manager or superintendent, which authority is hereby determined and repealed.

All the powers which might be exercised by any Board or local agent for the recovery of the rent of land or other property transferred under the said Section 4 of this Act, may, from the date of such transfer, be exercised by any trustee, manager or superintendent to whom such transfer is made.

7. Appointment of Committees. - In all cases described in Section 3 of this Act the ¹[State Government] shall once for all appoint one or more committees in every division or district to take the place, and to exercise the powers, of the Board of Revenue and the local agents under the Regulations hereby repealed.

Constitution and duties of Committees. - Such committees shall consist of three or more persons, and shall perform all the duties imposed on such Board and local agents, except in respect of any property which is specially provided for under Section 21 of this Act.

8. Qualifications of member of Committee. - The members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the mosque, temple, or other religious establishment was founded or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such mosque, temple, or other religious establishment.

The appointment of the Committee shall be notified in the Official Gazette.

Ascertaining wishes of persons interested. - In order to ascertain the general wishes of such persons in respect of such appointment, the ¹[State Government] may cause an election to be held, under such rules* ²[by notification in the Official Gazette,] (not inconsistent with the provisions of this Act) as shall be framed by such ¹[State Government].

* For rules made under Section. 8 for Madras, see Mad. R & O., Vol. I.

1. Substituted by A.O., 1950.

2. Inserted by Act 20 of 1983, Section 2 and Sch. (w.e.f. 15-3-1984).

¹[Every rule framed under this section shall be laid, as soon as it is framed, before the State Legislature.]

9. Tenure of office. - Every member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness.

Removal. - and no such member shall be removed except by an order of the civil Court as hereinafter provided.

10. Vacancies to be filled. - Whenever any vacancy shall occur among the members of a Committee appointed as above, a new member shall be elected to fill the vacancy by the persons interested as above provided.

Procedure. - The remaining members of the Committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new member by the persons interested as above provided, under rules* for elections which shall be framed by the ²[State Government] and whoever shall be then elected, under the said rules, shall be a member of the Committee to fill such vacancy.

When Court may fill vacancy. - If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the civil Court, on the application of any person whatever, may appoint a person to fill the vacancy or may order that the vacancy be forthwith filled up by the remaining members of the Committee, with which order it shall then be the duty of such remaining members to comply; and, if this order be not complied with, the civil Court may appoint a member to fill the said vacancy.

³[**Explanation.** - In this section "civil Court" means the principal Court of original civil jurisdiction in the district in which the mosques, temples, or religious establishments for which the committee has been appointed or any of them are situate.]

State Amendment – [Uttar Pradesh]. - In its application to the State of Uttar Pradesh, for paragraph 2 of S.10, substitute the following namely: -

"The remaining members of the Committee and, where no members remain, the State Government shall, as soon as possible, give public notice of such vacancy and shall fix a day, which shall not be later than three months from the date of such vacancy, for election of new members by the persons interested as above provided under rules for elections which shall be framed by the State Government." – Uttar Pradesh Act 29 of 1951, Section 2 (w.e.f.1-1-1952)

Section 10 – A

State Amendment – [Uttar Pradesh]. - In its application to the State of Uttar Pradesh, after Section 10, add the following section namely: -

"10-A. Subject to the provisions of Section 14, every member, whether elected or appointed, under the provisions of Section 10, shall hold his office for a period of five years from the date of his election or appointment, as the case may be:

Provided that in the case of a member who was elected or appointed more than four years before the date of commencement of the Religious Endowments (Uttar Pradesh Amendment) Act,

* For Rules under Section 10 for U.P., see U.P. List of R & O., Vol. I.

1. Inserted by Act 20 of 1983, Section 2 and Sch. (w.e.f.15-3-1984).

2. Substituted by A.O., 1950.

3. Inserted by Act 21 of 1925, S.3.

1951, the period as above provided shall be deemed to expire on a date after one year from the said date." – Uttar Pradesh Act 29 of 1951, Section 3 (w.e.f.17-1-1952).

11. No member of Committee to be also trustee, etc., of mosque, etc.- No member of a Committee appointed under this Act shall be capable of being, or shall act, also as a trustee, manager, or superintendent of the mosque, temple, or other religious establishment for the management of which such Committee shall have been appointed.

12. On appointment of Committee, Board and local agents to transfer property. - Immediately on the appointment of a Committee as above provided for the superintendence of any such mosque, temple, or other religious establishment, and for the management of its affairs, the Board of revenue, or the local agents acting under the authority of the said Board, shall transfer to such committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession of the said Board or local agents, and belonging to the said religious establishment, except as is hereinafter provided for.

Termination of powers and responsibilities of Board and agents. - and thereupon the powers and responsibilities of the board and the local agents, in respect of such mosque, temple, or other religious establishment, and to all land and other property so transferred except as above, and except as regards acts done and liabilities incurred by the said Board or agents previous to such transfer, shall cease and determine.

Commencement of powers of Committee.- All the powers which might be exercised by any Board or local agent for the recovery of the rent of land or other property transferred under this section may from the date of such transfer be exercised by such committee to whom such transfer is made.

13. Duty of trustee, etc., as to accounts. - It shall be the duty of every trustee manager and superintendent of a mosque, temple, or other religious establishment to which the provisions of this Act shall apply to keep regular accounts of his receipts and disbursements in respect of the endowments and expenses of such mosque, temple or other religious establishment;

Duty of committee. - and it shall be the duty of every committee of management, appointed or acting under the authority of this Act, to require from every trustee, manager and superintendent of such mosque, temple or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year; and every such committee of management shall themselves keep such accounts thereof.

14. Persons interested may singly sue in case of breach of trust, etc.- Any person or persons interested in any mosque, temple, or other religious establishment, or in the performance of the worship or of the service thereof, or the trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the civil Court the trustee, manager or superintendent of such mosque, temple, or other religious establishment or the member of any committee appointed under this Act, for any misfeasance, breach of trust, or neglect of duty, committed by such trustee, manager, superintendent or member of such committee, in respect of the trusts vested in, or confided to, them respectively;

Powers of civil Court. - and the civil Court may direct the specific performance of any act by such trustee, manager, superintendent or member of a committee, and may decree damages and costs against such trustee, manager, superintendent or member of a committee, and may also direct the removal of such trustee, manager, superintendent or member of a committee.

15. Nature of interest entitling person to sue. - The interest required in order to entitle

a person to sue under the last preceding section need not be a pecuniary, or a direct or immediate, interest or such an interest as would entitle the person suing to take any part in the management or superintendence of the trusts.

Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any mosque, temple, or other religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section.

16. Reference to arbitrators. - In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which suit or proceeding is pending to order any matter in difference in such suit to be referred for decision to one or more arbitrators.

Act 10 of 1940 applied. - Whenever any such order shall be made, the provisions of ¹[Chapter IV of the Arbitration Act, 1940] shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under ²[Section 21 of the said Act].

17. Reference under Act 10 of 1940. - Nothing in the last preceding section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said ³[Section 21 of the Arbitration Act, 1940.]

18. Application for leave to institute suits. - No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit, ⁴[***].

The Court, on the perusal of the application, shall determine whether there are sufficient *prima facie* grounds for the institution of a suit, and, if in the judgment of the Court there are such grounds, leave shall be given for its institution.

Costs. - ⁵[***] If the Court shall be of opinion that the suit has been for the benefit of the trust, and that no party to the suit is in fault, the Court may order the costs or such portion as it may consider just to be paid out of the estate.

19. Court may require accounts of trust to be filed. - Before giving leave for institution of a suit, or, after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the trustee, manager, or superintendent, or any member of a committee, as the case may be, to file in Court the accounts of the trust, or such part thereof as to the Court may seem necessary.

20. Proceedings for criminal breach of trust. - No suit or proceeding before any civil Court under the preceding sections shall in any way affect or interfere with any proceeding in a criminal Court for criminal breach of trust.

1. Substituted for "Chapter VI of the Code of Civil Procedure" by Act 10 of 1940, Section 49 and Sch. IV

2. Substituted, *ibid.*, for "Section 312 of the said Code".

3. Substituted for "Section 312 of the said Code of Civil Procedure" by Act 10 of 1940, Sec.49 and Sch. IV.

4. The words "the application may be made upon unstamped paper" repealed by Act 7 of 1870, Section 2 and Sch.III.

5. The words "In calculating the costs at the termination of the suit, the stamp duty on the preliminary application shall be estimated, and shall be added to the costs of the suit" repealed by Act 7 of 1870, Sec.2 and Sch. III.

21. Cases in which endowments are partly for religious and partly for secular purposes. - In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment is, appropriated partly to religious and partly to secular uses:

(i) the Board of Revenue, before transferring to any trustee, manager or superintendent, or to any committee of management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses,

(ii) and what portion shall be transferred to the superintendence of the trustee, manager or superintendent, or of the committee,

(iii) and also what annual amount, if any, shall be charged, on the land or other property which may be so transferred to the superintendence of the said trustee, manager or superintendent, or of the committee, and made payable to the said Board, or to the local agents, for secular uses as aforesaid.

In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

22. Government not to hold charge henceforth of property for support of any mosque, temple, etc.- Except as provided in this Act, it shall not be lawful ¹*** for ²[the Central Government or any State Government], or for any officer of any Government in his official character:

(i) to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any mosque, temple or other religious establishment, or

(ii) to take any part in the management or appropriation of any endowment made for the maintenance of any such mosque, temple or other establishment, or

(iii) to nominate or appoint any trustee, manager or superintendent thereof, or to be in any way concerned therewith.

State Amendment - [West Bengal]. - In its application to the State of West Bengal, to Section 22, add the following *proviso*, namely, -

"Provided that this section shall not so far as it is inconsistent with the provisions of the Bengal Wakf Act, 1934, apply to any wakf property in Bengal."- Bengal Act 13 of 1934, Section. 77 (w.e.f. 19-7-1934).

23. Effect of Act in respect of Regulations therein mentioned, and of buildings of antiquity, etc. - Nothing in this Act shall be held to affect the provisions of the Regulations* mentioned in this Act, except insofar as they relate to mosques, Hindu temples and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings** remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

* See the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810, and Madras Endowments and Escheats Regulation, 1817.

** See also the Ancient Monuments Preservation Act 7 of 1904.

1. The words "after the passing of this Act" omitted by Repealing Act 16 of 1874, S.1 and Sch.

2. Substituted for "any Government in India" by A.O., 1948.

Section 23-A

State Amendment - [West Bengal]. - In its application to the State of West Bengal, after Section 23, insert the following new section, namely, -

"23-A. Powers of civil Court to be exercised by the Board of Wakfs in Bengal. - Notwithstanding anything contained in this Act, the powers of the civil Court under Section 5 and 10 shall be exercised in respect of any wakf property in Bengal by the Board of Wakfs appointed under the Bengal Wakf Act, 1934."—Bengal Act 13 of 1934, Section 78 (w.e.f.19-7-1934).

24. "India". — [Repealed by A.O., 1948.]

THE LAND ACQUISITION ACT, 1894.

23. Matters to be considered in determining compensation. — (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

—**first**, the market-value of the land at the date of the publication of the ¹[notification under Section 4, Sub-section (1)].

—**secondly**, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

—**thirdly**, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

—**fourthly**, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

—**fifthly**, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

—**sixthly**, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land.

²[(1-A) In addition to the market-value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market-value for the period commencing on and from the date of the publication of the notification under Section 4, Sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation. —In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.]

(2) In addition to the market-value, of the land, as above provided, the Court shall in every case award a sum of ³[thirty per centum] on such market-value, in consideration of the compulsory nature of the acquisition.

1. Substituted by Act XXXVIII of 1923 for "declaration relating thereto" under Section 6.

2. Inserted by Act LXVIII of 1984.

3. Substituted for the words "15% per centum" by Act LXVIII of 1984.

Tamil Nadu Amendment

¹[Madras (City)]

Madras Act XXXVII of 1950, Section 73 and Schedule para. 6.

1. In Sub-section (1) of Section 23, for clause first and sixth, the following clauses shall respectively be deemed to be substituted, namely, —

“first, the market value of the land—

(a) at the date of the issue of the notice under clause (b) of Sub-section (3) of Section 40 of the Madras City Improvement Trusts Act, 1950, in case the land is proposed to be acquired in pursuance of that clause; and

(b) at the date of the first publication of the notice under Section 47 of the Act, in any other case.”

“sixthly the damage (if any) *bona fide* resulting from diminution of the profits of the land between the date referred to in paragraph (a) or paragraph (b), as the case may be, of clause “first”, and the dates on which the Collector takes possession of the land.

2. In the same section, Sub-section (2) shall be omitted, and, *in lieu* thereof, the following sub-section shall be deemed to have been substituted namely: —

(2) for the purposes of clause “first” of Sub-section (1) of the section—

(a) if the market-value of the land has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded;

(b) if any person, otherwise than in accordance with the provisions of this Act, erects, re-erects, adds to, or alters any wall or building so as to make the same project into the street alignment or beyond the building line prescribed by any scheme made under this Act, then, any increase in the market-value resulting from such erection, re-erection, addition or alteration shall be disregarded.”]

Tamil Nadu Town and Country Planning Act XXXV of 1971.

Section 37 (3). — When land is acquired in pursuance of the provisions of the Tamil Nadu Town and Country Planning Act, 1971, the Land Acquisition Act, shall so far as may be, apply to the acquisition of the said land with the modification that the market-value of the land shall be the market-value prevailing on the date of the publication of the notice in the *Tamil Nadu Government Gazette* under Section 26 or Section 27 of Tamil Nadu Town and Country Planning Act, as the case may be.

“Madras Land Improvement Scheme Act XXXI of 1959”, Section 7—

(1) In determining the amount of compensation, under the Madras Land Improvement Scheme Act, 1959, the Collector shall be guided, so far as may be, by the provision of Sections 23 and 24 of the Land Acquisition Act, 1894 (Central Act 1 of 1894), and as regards matters which cannot be dealt with under those provisions, by what is just and reasonable in the circumstances of each case.

(2) If in any case, the exercise of any right is prohibited or restricted for a time only, the compensation shall be awarded only in respect of the period during which the exercise of such right is so prohibited or restricted.

1. Repealed by the Tamil Nadu State Housing Board Act, 1961 (Tamil Nadu Act XVII of 1961) by Section.

The Land Acquisition (Tamil Nadu Amendment) Act, 1996 (Act XVI of 1997).

After Section 23 of the principal Act, the following section shall be inserted, namely: —

“23-A. Restriction on withdrawal of amount. — The amount of compensation awarded by any Court under this Act shall be deposited in that Court and the Court shall not allow the person interested to withdraw such amount till the final disposal of the matter in this regard in the highest forum:

Provided that if the Court considers that it is absolutely necessary to allow the person interested to withdraw the amount of compensation, the Court may allow him to withdraw only the amount awarded by the Collector.

Explanation. - For the purpose of this section, “Court” includes the “High Court”.

24. Matters to be neglected in determining compensation. — But the Court shall not take into consideration—

—**first**, the degree of urgency which has led to the acquisition;

—**secondly**, any disinclination of the person interested to part with the land acquired;

—**thirdly**, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

—**fourthly**, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under Section 6, by or in consequence of the use to which it will be put;

—**fifthly**, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

—**sixthly**, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

—**seventhly**, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the ¹[notification under Section 4, Sub-section (1);]

—²[**eighthly**, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.]

Tamil Nadu amendment**[Land Acquisition (Madras Amendment Act XXIII of 1961)**

In Section 24—

(i) In clause sixthly, omit the word “or” occurring at the end; and in clause seventhly, add the word “for” at the end;

(ii) After clause seventhly, add the following clause, namely, —

eightly, any increase to the value of the land acquired by reason of suitability or adaptability for any use other than the use to which the land put at the publication of the notification under Section 4 Sub-section (1).”]

³[**Madras City Improvement Trusts Act XXXVII of 1950] Section 73 and Schedule para.11**

1. Substituted for the words “declaration under Section 6” by Act XXXVIII of 1923.

2. Inserted by Act LXVIII of 1984.

3. Repealed by the Tamil Nadu State Housing Board Act, 1961 (Tamil Nadu Act XVII of 1961) by Sec.162.

In Section 24, for clause seventhly the following shall be deemed to be substituted, namely—

“Seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market value is to be determined, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair.”

Madras City Improvement Trusts Act XXXVII of 1950, Section 73 and Schedule, para.6 (27th February, 1951).

After Section 24 the following section shall be deemed to be inserted, namely: —

“24-A Further provisions for determining compensation. —

In determining the amount to be awarded for any land acquired for the Board under this Act, regard shall also be had to the following provisions, namely: —

(1) When any interest in any land acquired under this Act has been acquired after the date with reference to which the market-value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.

(2) If, in the opinion of the Court, any building is in a defective state from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state.

(3) If, in the opinion of the Court, any building, which is used or is intended or is likely to be used for human habitation is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, minus the cost of demolishing the building.”]

THE CONSTITUTION OF INDIA, 1950.

Right to freedom of religion

Art 25. Freedom of conscience and freedom to profession, practice, and propagation of religion. — (1) Subject to public order, morality and health, and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice, and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political, or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I. — The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II. — In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina, or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Art 26. Freedom to manage religious affairs. — Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

Art 27. Freedom as to payment of taxes for promotion of any particular religion. — No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Art 28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions. — (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Art 29. Protection of interests of minorities.— (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Art 30. Right of minorities to establish and administer educational institutions.— (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

¹[(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in Clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

STATES RE-ORGANISATION ACT, (37 of 1956).

112. Provision as to the Devaswom surplus Fund of Travancore — (1) As from the appointed day, there shall be established in the State of Madras a Devaswom Fund for the management of Hindu temples and shrines in the territories transferred to that State from the State of Travancore-Cochin.

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, Sec.4 (w.e.f.20-6-1979).

(2) The assets on the appointed day of the Devaswom Surplus Fund constituted by Section 26 of the Travancore-Cochin Hindu Religious Institutions Act, 1950, shall be divided into two parts in the ratio of 37:5 in such manner as the Central Government may, by order, and the smaller part shall, as from the appointed day, be transferred to the Fund mentioned in Sub-section(1).

THE JUDICIAL OFFICER'S PROTECTION ACT, 1850*
(18 of 1850)

[4th April, 1850]

An Act for the protection of Judicial Officers.

Preamble. — For the greater protection of Magistrates and others acting judicially; It is enacted as follows: —

1. Non-liability to suit of officers acting judicially, for official acts done in good faith and of officers executing warrants and orders. — No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: Provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

State Amendment - [Andhra Pradesh]. — Renumber Sec.1 as §ec.1-A and before the section, so renumbered, insert the following section, namely, —

"1. Short title and extent. — (1) This Act may be called The Judicial Officers' Protection Act, 1850.

(2) It extends to the whole of the State of Andhra Pradesh". — A.P. Act 23 of 1958, S. 3 and Sch. (w.e.f.1-2-1960).

[Karnataka]. — Same as in Andhra Pradesh except that for the words "Andhra Pradesh" in Sub-section(2), read "Karnataka" — Karnataka Act 33 of 1978, Section1 (with immediate effect).

[Tamil Nadu]. — Same as in Andhra Pradesh except that for the words "Andhra Pradesh" in Sub-sec.(2), read "Madras" — T.N. (Added Territories) A.L.O., 1961 (w.e.f.1-4-1960).

THE CODE OF CIVIL PROCEDURE

9. Courts to try all civil suits unless barred. —The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

¹[*Explanation I*]. — A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

²[*Explanation II*. — For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in *Explanation I* or whether or not such office is attached to a particular place.]

Notes

A suit for declaration of right to honours in a temple is not maintainable in Civil Court. (2004) 4 M.L.J.131.

THE CODE OF CIVIL PROCEDURE (V of 1908).

³[**92. Public charities.** — (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the ⁴[leave of the Court] may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree—

- (a) removing any trustee;
- (b) appointing a new trustee;
- (c) vesting any property in a trustee;

⁵[(cc) directing a trustee who has been removed or a person who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property;

- (d) directing accounts and inquiries;
- (e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;
- (f) authorizing the whole or any part of the trust property to be let, sold, mortgaged or exchanged;
- (g) settling a scheme; or
- (h) granting such further or other relief as the nature of the case may require.

1. Explanation renumbered as Explanation I thereof by Act 104 of 1976, Section 5 (w. e. f. 1-2-1977).

2. Inserted. by Act 104 of 1976, Section 5 (w. e. f. 1-2-1977).

3. Section 92 shall not apply to any religious trust in Bihar Act 1 of 1951.

4. Substituted by Act 104 of 1976, Section 31 for "consent in writing of the Advocate-General" (w.e.f.1-2-1977).

5. Inserted by Act 66 of 1956, Section 9 (w.e.f.1-1-1957).

(2) Save as provided by the Religious Endowments Act, 1863 (20 of 1863), ¹[or by any corresponding law in force in ²[the territories which, immediately before the 1st November, 1956, were comprised in Part B States], no suit claiming any of the reliefs specified in Sub-section (1) shall be instituted in respect of any such trust as is therein referred to except in conformity with the provisions of that sub-section.

³[(3) The Court may alter the original purposes of an express or constructive trust created for public purposes of a charitable or religious nature and allow the property or income of such trust or any portion thereof to be applied *cy pres* in one or more of the following circumstances, namely: —

- (a) where the original purposes of the trust, in whole or in part, —
 - (i) have been, as far as may be, fulfilled; or
 - (ii) cannot be carried out at all, or cannot be carried out according to the directions, given in the instrument creating the trust or, where there is no such instrument, according to the spirit of the trust; or
- (b) where the original purposes of the trust provide a use for a part only of the property available by virtue of the trust; or
- (c) where the property available by virtue of the trust and other property applicable for similar purposes can be more effectively used in conjunction with, and to that end can suitably be made applicable to any other purpose, regard being had to the spirit of the trust and its applicability to common purposes; or
- (d) where the original purposes, in whole or in part, were laid down by reference to an area which then was, but has since ceased to be, a unit for such purposes; or
- (e) where the original purposes, in whole or in part, have, since they were laid down, —
 - (i) been adequately provided for by other means, or
 - (ii) ceased, as being useless or harmful to the community, or
 - (iii) ceased to be, in law, charitable, or
 - (iv) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the trust, regard being had to the spirit of the trust.]

93. Exercise of powers of Advocate-General outside Presidency-towns. - The powers conferred by Sections 91 and 92 on the Advocate-General may, outside the presidency-towns, be, with the previous sanction of the State Government, exercised also by the Collector or by such officer as the State Government may appoint in this behalf.

1 Inserted. by Act 2 of 1951, Sec.13.

2. Substituted. by the Adaptation of Laws (No.2) Order, 1956, for "a Part B State".

3. Inserted. by Act 104 of 1976, Sec.31(w.e.f.1-2-1977).

THE CODE OF CIVIL PROCEDURE, 1908.
(Act V of 1908, ORDER VI to ORDER XVIII)
ORDER VI

PLEADINGS GENERALLY

1. Pleading.- "Pleading" shall mean plaint or written statement.

¹**[2. Pleading to state material facts and not evidence.-**(1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

(2) Every pleading shall, when necessary, be divided into paragraphs, numbered consecutively, each allegation being, so far as is convenient, contained in a separate paragraph.

(3) Dates, sums and numbers shall be expressed in a pleading in figures as well as in words].

3. Forms of pleading.- The forms in Appendix A when applicable, and where they are not applicable, forms of the like character, as nearly as may be, shall be used for all pleadings.

4. Particulars to be given where necessary.- In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, willful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.

²[***]

6. Condition precedent.- Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant, as the case may be; and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleading.

7. Departure.- No pleading shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

8. Denial of contract.- Where a contract is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial in fact of the express contract alleged or of the matters of fact from which the same may be implied, and not as a denial of the legality or sufficiency in law of such contract.

9. Effect of document to be stated.- Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

10. Malice, knowledge, etc.-Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

11. Notice.- Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, are material.

1. Subs. by Act 104 of 1976, Sec.56, Rule 2 (w.e.f.1-2-1977).

2. Rule 5 omitted by Act 46 of 1999, Sec.16 (w.e.f.1-7-2002).

12. Implied contract or relation.- Wherever any contract or any relation between any person is to be implied from a series of letters or conversations or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations or circumstances without setting them out in detail. And if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one, as to be implied from such circumstances, he may state the same in the alternative.

13. Presumptions of law.- Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied (e.g., consideration as a substantive ground of claim).

14. Pleading to be signed.- Every pleading shall be signed by the party and his pleader (if any):

Provided that where a party pleading is, by reason of absence or for other good cause; unable to sign the pleading, it may be signed by any person duly authorized by him to sign the same or to sue or defend on his behalf.

¹**[14A. Address for service of notice.-**(1) Every pleading, when filed by a party, shall be accompanied by a statement in the prescribed form, signed as provided in Rule 14, regarding the address of the party.

(2) Such address may, from time to time, be changed by lodging in Court a form duly filled up and stating the new address of the party and accompanied by a verified petition.

(3) The address furnished in the statement made under sub-rule (1) shall be called the "registered address" of the party, and shall, until duly changed as aforesaid, be deemed to be the address of the party for the purpose of service of all processes in the suit or in any appeal from any decree or order therein made and for the purpose of execution, and shall hold good, subject as aforesaid, for a period of two years after the final determination of the cause or matter.

(4) Service of any process may be effected upon a party at his registered address in all respects as though such party resided thereat.

(5) Where the registered address of a party is discovered by the Court to be incomplete, false or fictitious, the Court may, either on its own motion, or on the application of any party, order—

(a) in the case where such registered address was furnished by a plaintiff, stay of the suit, or

(b) in the case where such registered address was furnished by a defendant, his defence be struck out and he be placed in the same position as if he had not put up any defence.

(6) Where a suit is stayed or a defence is struck out under sub-rule (5), the plaintiff or, as the case may be, the defendant may, after furnishing his true address, apply to the Court for an order to set aside the order of stay or, as the case may be, the order striking out the defence.

(7) The Court, if satisfied that the party was prevented by any sufficient cause from filing the true address at the proper time, shall set aside the order of stay or order striking out the defence, on such terms as to costs or otherwise as it thinks fit and shall appoint a day for proceeding with the suit or defence, as the case may be.

1. Ins. by Act 104 of 1976, Sec.56 (w.e.f. 1-2-1977).

(8) Nothing in this Rule shall prevent the Court from directing the service of a process at any other address, if, for any reason, it thinks fit to do so.]

15. Verification of pleadings.-(1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

¹[(4) The person verifying the pleading shall also furnish an affidavit in support of his pleadings.]

²**16. Striking out pleadings.**- The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—

- (a) which may be unnecessary, scandalous, frivolous or vexatious, or
- (b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or
- (c) which is otherwise an abuse of the process of the Court.]

³**17. Amendment of pleadings.**- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

18. Failure to amend after order.- If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, unless the time is extended by the Court.]

ORDER VII

PLAINT

1. Particulars to be contained in plaint.- The plaint shall contain the following particulars:-

- (a) the name of the Court in which the suit is brought;
- (b) the name, description and place of residence of the plaintiff;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained;
- (d) where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect;
- (e) the facts constituting the cause of action and when it arose;
- (f) the facts showing that the Court has jurisdiction;

1. Ins. by Act 46 of 1999, Sec.16 (w.e.f. 1-7-2002).

2. Subs. By Act 104 of 1976, Sec.56, for Rule 16 (w.e.f. 1-2-1977).

3. Rules 17 and 18 omitted by Act 46 of 1999, Sec.16 and again subs. by Act 22 of 2002, sec.7 (w.e.f. 1-7-2002).

- (g) the relief which the plaintiff claims;
- (h) where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished; and
- (i) a statement of the value of the subject-matter of the suit for the purposes of jurisdiction and of Court-fees, so far as the case admits.

2. In money suits.- Where the plaintiff seeks the recovery of money, the plaint shall state the precise amount claimed:

But where the plaintiff sues for *mesne profits*, or for an amount which will be found due to him on taking unsettled accounts between him and the defendant, ¹[or for movables in the possession of the defendant, or for debts of which the value he cannot, after the exercise of reasonable diligence, estimate, the plaint shall state approximately the amount or value sued for].

3. Where the subject-matter of the suit is immovable property.- Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers.

4. When plaintiff sues as representative.- Where the plaintiff sues in a representative character, the plaint shall show not only that he has an actual existing interest in the subject-matter, but that he has taken the steps (if any) necessary to enable him to institute a suit concerning it.

5. Defendant's interest and liability to be shown.- The plaint shall show that the defendant is or claims to be interested in subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

6. Grounds of exemption from limitation law.- Where the suit is instituted after the expiration of the period prescribed by the law of limitation, the plaint shall show the ground upon which exemption from such law is claimed:

²[Provided that the Court may permit the plaintiff to claim exemption from the law of limitation on any ground not set out in the plaint, if such ground is not inconsistent with the grounds set out in the plaint.]

7. Relief to be specifically stated.- Every plaint shall state specifically the relief which the plaintiff claims either simply or in the alternative, and it shall not be necessary to ask for general or other relief which may always be given as the Court may think just to the same extent as if it had been asked for. And the same rule shall apply to any relief claimed by the defendant in his written statement.

8. Relief founded on separate grounds.- Where the plaintiff seeks relief in respect of several distinct claims or causes of action founded upon separate and distinct grounds, they shall be stated as far as may be separately and distinctly.

³**9. Procedure on admitting plaint.-** Where the Court orders that the summons be served on the defendants in the manner provided in Rule 9 of Order V, it will direct the plaintiff to present as many copies of the plaint on plain paper as there are defendants within seven days from the date of such order along with requisite fee for service of summons on the defendants.]

⁴**10. Return of plaint.-**(1) ⁴[Subject to the provisions of Rule 10A, the plaint shall] at any

1. Subs. by Act 104 of 1976, Sec.57, for certain words (w.e.f. 1-2-1977).

2. Added by Act 104 of 1976, Sec.57, (w.e.f. 1-2-1977).

3. Rule 9 subs. by Act 46 of 1999, Sec.17 and again subs. by Act 22 of 2002, Sec.8 (w.e.f. 1-7-2002).

4. The rule has been applied to suits for the recovery of rent under the Chotanagpur Tenancy Act, 1908 (Ben. 6 of 1908), Sec.265.

stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

¹[*Explanation.*- For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.]

(2) Procedure on returning plaint.- On returning a plaint, the judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

¹[10A. Power of Court to fix a date of appearance in the Court where plaint is to be filed after its return.]-(1) Where, in any suit, after the defendant has appeared, the Court is of opinion that the plaint should be returned, it shall, before doing so, intimate its decision to the plaintiff.

(2) Where an intimation is given to the plaintiff under sub-rule (1), the plaintiff may make an application to the Court—

- (a) specifying the Court in which he proposes to present the plaint after its return,
- (b) praying that the Court may fix a date for the appearance of the parties in the said Court, and
- (c) requesting that the notice of the date so fixed may be given to him and to the defendant.

(3) Where an application is made by the plaintiff under sub-rule (2), the Court shall, before returning the plaint and notwithstanding that the order for return of plaint was made by it on the ground that it has no jurisdiction to try the suit,—

- (a) fix a date for the appearance of the parties in the Court in which the plaint is proposed to be presented, and
- (b) give to the plaintiff and to the defendant notice of such date for appearance.

(4) Where the notice of the date for appearance is given under sub-rule (3),—

- (a) it shall not be necessary for the Court in which the plaint is presented after its return, to serve the defendant with a summons for appearance in the suit, unless that Court, for reasons to be recorded, otherwise directs, and
- (b) the said notice shall be deemed to be a summons for the appearance of the defendant in the Court in which the plaint is presented on the date so fixed by the Court by which the plaint was returned.

(5) Where the application made by the plaintiff under sub-rule (2) is allowed by the Court, the plaintiff shall not be entitled to appeal against the order returning the plaint.

10B. Power of appellate Court to transfer suit to the proper Court.-(1) Where, on an appeal against an order for the return of plaint, the Court hearing the appeal confirms such order, the Court of appeal may, if the plaintiff by an application so desires, while returning the plaint, direct plaintiff to file the plaint, subject to the provisions of the Limitation Act, 1963 (36 of 1963), in the Court in which the suit should have been instituted (whether such Court is within or without the State in which the Court hearing the appeal is situated), and fix a date for the appearance of the parties in the Court in which the plaint is directed to be filed and when the date is so fixed it shall not be necessary for the Court in which the plaint is filed to serve the defendant

with the summons for appearance in the suit, unless that Court in which the plaint is filed, for reasons to be recorded, otherwise directs.

(2) The direction made by the Court under sub-rule (1) shall be without any prejudice to the rights of the parties to question the jurisdiction of the Court, in which the plaint is filed, to try the suit.]

11. Rejection of plaint.—The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law:
- ¹[(e) where it is not filed in duplicate;]
- ²[(f) where the plaintiff fails to comply with the provisions of Rule 9:]

³[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]

12. Procedure on rejecting plaint.—Where a plaint is rejected the Judge shall record an order to that effect with the reasons for such order.

13. Where rejection of plaint does not preclude presentation of fresh plaint.—The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

Documents relied on in plaint

⁴[**14. Production of document on which plaintiff sues or relies.**—(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

⁵[(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.]

1. Ins. by Act 46 of 1999, Sec.17(w.e.f.1-7-2002).

2. Clauses (f) and (g) ins. by the Act 46 of 1999, Sec.17 and subs. by Act 22 of 2002, Sec.8 (w.e.f.1-7-2002).

3. Added by Act 104 of 1976, Sec.57 (w.e.f.1-2-1977).

4. Subs. by Act 46 of 1999, Sec.17, for Rule 14 (w.e.f.1-7-2002).

5. Subs. by Act 22 of 2002, Sec.8, for Sub-rule (3) (w.e.f.1-7-2002).

(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiff's witness, or, handed over to a witness merely to refresh his memory.]

¹[***]

16. Suits on lost negotiable instruments.—Where the suit is founded upon a negotiable instrument, and it is proved that the instrument is lost, and an indemnity is given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may pass such decree as it would have passed if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

17. Production of shop-book.—(1) Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891 (18 of 1891), where the document on which the plaintiff sues is an entry in a shop-book or other account in his possession or power, the plaintiff shall produce the book or account at the time of filing the plaint, together with a copy of the entry on which he relies.

(2) Original entry to be marked and returned.—The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original, shall, if it is found correct, certify it to be so and return the book to the plaintiff and cause the copy to be filed.

²[***]

ORDER VIII

³[WRITTEN STATEMENT, SET-OFF AND COUNTER-CLAIM]

⁴[1. Written statement.— The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.]

⁵[1A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him.—(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

⁶[(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.]

1. Rule 15 omitted by Act 46 of 1999, Sec.17 (w.e.f. 1-7-2002).

2. Rule 18 omitted by Act 22 of 2002, Sec.8 (w.e.f. 1-7-2002).

3. Subs. by Act 104 of 1976, Sec.58 for the former heading (w.e.f. 1-2-1977).

4. Rule 1 subs. by Act 46 of 1999, Sec.18 and again subs. by the Act 22 of 2002, Sec.9 (w.e.f. 1-7-2002).

5. Ins. by Act 46 of 1999, Sec.18 (w.e.f. 1-7-2002).

6. Subs. by Act 22 of 2002, Sec.9, for Sub-rule (3) (w.e.f. 1-7-2002).

(4) Nothing in this rule shall apply to documents—

- (a) produced for the cross-examination of the plaintiff's witnesses, or
- (b) handed over to a witness merely to refresh his memory.]

2. New facts must be specially pleaded.- The defendant must raise by his pleading all matters which show the suit not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence as, if not raised, would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the plaint, as, for instance, fraud, limitation, release, payment, performance, or facts showing illegality.

3. Denial to be specific.- It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal specifically with each allegation of fact of which he does not admit the truth, except damages.

4. Evasive denial.- Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Thus, if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with diverse circumstances, it shall not be sufficient to deny it along with those circumstances.

5. Specific denial.- ¹[(1)] Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability:

Provided that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission.

²[(2) Where the defendant has not filed a pleading, it shall be lawful for the Court to pronounce judgment on the basis of the facts contained in the plaint, except as against a person under a disability, but the Court may, in its discretion, require any such fact to be proved.

(3) In exercising its discretion under the proviso to sub-rule (1) or under sub-rule (2), the Court shall have due regard to the fact whether the defendant could have, or has, engaged a pleader.

(4) Whenever a judgment is pronounced under this rule, a decree shall be drawn up in accordance with such judgment and such decree shall bear the date on which the judgment was pronounced.]

6. Particulars of set-off to be given in written statement.- (1) Where in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, not exceeding the pecuniary limits of the jurisdiction of the Court, and both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards unless permitted by the Court, present a written statement containing the particulars of the debt sought to be set-off.

(2) Effect of set-off.— The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment in respect both of the original claim and of the set-off: but this shall not affect the lien, upon the amount decreed, of any pleader in respect of the costs payable to him under the decree.

1. Rule 5 renumbered as Sub-rule (1) of that rule by Act 104 of 1976, Sec.58 (w.e.f. 1-2-1977).

2. Ins. by Act 104 of 1976, Sec.58 (w.e.f. 1-2-1977).

(3) The rules relating to a written statement by a defendant apply to a written statement in answer to a claim of set-off.

1[6A. Counter-claim by defendant.- (1) A defendant in a suit may, in addition to his right of pleading a set-off under Rule 6, set up, by way of counter-claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not:

Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the Court.

(2) Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.

(3) The plaintiff shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the Court.

(4) The counter-claim shall be treated as a plaint and governed by the rules applicable to plaints].

6B. Counter-claim to be stated.- Where any defendant seeks to rely upon any ground as supporting a right of counter-claim, he shall, in his written statement, state specifically that he does so by way of counter-claim.

6C. Exclusion of counter-claim.- Where a defendant sets up a counter-claim and the plaintiff contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent suit, the plaintiff may, at any time before issues are settled in relation to the counter-claim, apply to the Court for an order that such counter-claim may be excluded, and the Court may, on the hearing of such application make such order as it thinks fit.

6D. Effect of discontinuance of suit.- If in any case in which the defendant sets up a counter-claim, the suit of the plaintiff is stayed, discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

6E. Default of plaintiff to reply to counter-claim.- If the plaintiff makes default in putting in a reply to the counter-claim made by the defendant, the Court may pronounce judgment against the plaintiff in relation to the counter-claim made against him, or make such order in relation to the counter-claim as it thinks fit.

6F. Relief to defendant where counter-claim succeeds.- Where in any suit a set-off or counter-claim is established as a defence against the plaintiff's claim, and any balance is found due to the plaintiff or the defendant, as the case may be, the Court may give judgment to the party entitled to such balance.

6G. Rules relating to written statement to apply.- The rules relating to a written statement by a defendant shall apply to a written statement filed in answer to a counter-claim.]

7. Defence or set-off founded upon separate grounds.- Where the defendant relies upon several distinct grounds of defence or set-off ¹[or counter-claim] founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly.

8. New ground of defence.- Any ground of defence which has arisen after the institution of the suit or the presentation of a written statement claiming a set-off ¹[or counter-claim] may be

1. Ins. by Act 104 of 1976, Sec.58 (w.e.f. 1-2-1977).

raised by the defendant or plaintiff as the case may be, in his written statement.

¹[***]

²**9. Subsequent pleadings.**— No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same.

10. Procedure when party fails to present written statement called for by Court.— Where any party from whom a written statement is required under Rule 1 or Rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.]

ORDER IX

APPEARANCE OF PARTIES AND CONSEQUENCE OF NON-APPEARANCE

1. Parties to appear on day fixed in summons for defendant to appear and answer.— On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective pleaders, and the suit shall then be heard unless the hearing is adjourned to a future day fixed by the Court.

³**2. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs.**— where on the day so fixed it is found that the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the Court-fee or postal charges, if any, chargeable for such service, or failure to present copies of the plaint as required by Rule 9 of Order VII, the Court may make an order that the suit be dismissed:

Provided that no such order shall be made, if notwithstanding such failure, the defendant attends in person or by agent when he is allowed to appear by agent on the day fixed for him to appear and answer.]

3. Where neither party appears, suit to be dismissed.—Where neither party appears when the suit is called on for hearing, the Court may make an order that the suit be dismissed.

4. Plaintiff may bring fresh suit or Court may restore suit to file.—Where a suit is dismissed under Rule 2 or Rule 3, the plaintiff may (subject to the law of limitation) bring a fresh suit; or he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for ⁴[such failure as is referred to in Rule 2], or for his non-appearance, as the case may be, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

5. Dismissal of suit where plaintiff, after summons returned unserved, fails for ⁵[seven days] to apply for fresh summons.— ⁶[(1) Where, after a summons has been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails, for a

1. Rule 8A ins. by Act 104 of 1976, Sec.58 (w.e.f. 1-2-1977) and omitted by Act 46 of 1999, Sec.18 (w.e.f. 1-7-2002).

2. Rules 9 and 10 omitted by Act 46 of 1999, Sec.18 and again subs. by Act 22 of 2002, Sec.9 (w.e.f. 1-7-2002)

3. Rule 2 subs. by Act 46 of 1999, Sec.19 and again subs. by Act 22 of 2002, Sec.10 (w.e.f. 1-7-2002).

4. Subs. by Act 104 of 1976, Sec.59, for certain words (w.e.f.1-2-1997).

5. Subs. by Act 104 of 1976, Sec.59, for "three months" (w.e.f. 1-2-1977) and again subs. by Act 46 of 1999, Sec.19, for "one month" (w.e.f. 1-7-2002).

6. Subs. by Act 24 of 1920, Sec.2, for sub-rule (1).

period of ¹[seven days] from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers, to apply for the issue of a fresh summons, the Court shall make an order that the suit be dismissed as against such defendant, unless the plaintiff has within the said period satisfied the Court that—

(a) he has failed using his best endeavours to discover the residence of the defendant, who has been served, or

(b) such defendant is avoiding service of process, or

(c) there is any other sufficient cause for extending the time,

in which case the Court may extend the time for making such application for such period as it thinks fit.]

(2) In such case the plaintiff may (subject to the law of limitation) bring a fresh suit.

6. Procedure when only plaintiff appears.—(1) Where the plaintiff appears and the defendant does not appear when the suit is called on for hearing, then—

²[(a) **When summons duly served**—If it is not proved that the summons was duly served, the Court may make an order that the suit be heard *ex parte*;]

[b] **When summons not duly served**—If it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant;

(c) **When summons served but not in due time**—If it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

(2) Where it is owing to the plaintiff's default that the summons was not duly served or was not served in sufficient time, the Court shall order the plaintiff to pay the costs occasioned by the postponement.

7. Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance.—Where the Court has adjourned the hearing of the suit *ex-parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

8. Procedure where defendant only appears.—Where the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court shall make an order that the suit be dismissed unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

9. Decree against plaintiff by default bars fresh suit.—(1) Where a suit is wholly or partly dismissed under Rule 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his non-appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

(2) No order shall be made under this rule unless notice of the application has been served on the opposite party.

1. Subs. by Act 104 of 1976, Sec.59, for "three months" (w.e.f.1-2-1977) and again subs. by Act 46 of 1999, Sec.19, for "one month" (w.e.f.1-2-1977).

2. Subs. by Act 104 of 1976, Sec.59, for clause (a) (w.e.f.1-2-1977).

10. Procedure in case of non-attendance of one or more of several plaintiffs.—Where there are more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, or make such orders as it thinks fit.

11. Procedure in case of non-attendance of one or more of several defendants.—Where there are more defendants than one, and one or more of them appear, and the others do not appear, the suit shall proceed, and the Court shall, at the time of pronouncing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

12. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.—Where a plaintiff or defendant, who has been ordered to appear in person, does not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing rules applicable to plaintiffs and defendants, respectively who do not appear.

13. Setting aside decree *ex parte* against defendants.—In any case on which a decree is passed *ex parte* against a defendant, he may apply to the Court by which the decree was passed for an order to set it aside; and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make an order setting aside the decree as against him upon such terms as to costs, payment into Court or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit:

Provided that where the decree is of such a nature that it cannot be set aside as against such defendant only it may be set aside as against all or any of the other defendants also:

¹[Provided further that no Court shall set aside a decree passed *ex parte* merely on the ground that there has been an irregularity in the service of summons, if it is satisfied that the defendant had notice of the date of hearing and had sufficient time to appear and answer the plaintiff's claim.]

²[*Explanation.*—Where there has been an appeal against a decree passed *ex parte* under this rule, and the appeal has been disposed of on any ground other than the ground that the appellant has withdrawn the appeal, no application shall lie under this rule for setting aside the *ex parte* decree.]

14. No decree to be set aside without notice to opposite party.—No decree shall be set aside on any such application as aforesaid unless notice thereof has been served on the opposite party.

ORDER X

EXAMINATION OF PARTIES BY THE COURT

1. Ascertainment whether allegations in pleadings are admitted or denied.—At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by the necessary implication admitted or denied by the

1. Added by Act 104 of 1976, Sec.59 (w.e.f.1-2-1977).

2. Ins. by Act 104 of 1976, Sec.59 (w.e.f.1-2-1977).

party against whom they are made. The Court shall record such admissions and denials.

¹[1A. Direction of the Court to opt for any one mode of alternative dispute resolution.—After recording the admissions and denials, the Court shall direct the parties to the suit to opt either mode of the settlement outside the Court as specified in Sub-section (1) of Section 89. On the option of the parties, the Court shall fix the date of appearance before such forum or authority as may be opted by the parties.

1B. Appearance before the conciliatory forum or authority.—Where a suit is referred under Rule 1A, the parties shall appear before such forum or authority for conciliation of the suit.

1C. Appearance before the Court consequent to the failure of efforts of conciliation.—Where a suit is referred under Rule 1A and the presiding officer of conciliation forum or authority is satisfied that it would not be proper in the interest of justice to proceed with the matter further, then, it shall refer the matter again to the Court and direct the parties to appear before the Court on the date fixed by it.]

²[2. Oral examination of party, or companion of party.—(1) At the first hearing of the suit, the Court—

(a) shall, with a view to elucidating matters in controversy in the suit, examine orally such of the parties to the suit appearing in person or present in Court, as it deems fit; and

(b) may orally examine any person, able to answer any material question relating to the suit, by whom any party appearing in person or present in Court or his pleader is accompanied.

(2) At any subsequent hearing, the Court may orally examine any party appearing in person or present in Court, or any person, able to answer any material question relating to the suit, by whom such party or his pleader is accompanied.

(3) The Court may, if it thinks fit, put in the course of an examination under this rule questions suggested by either party.]

³3. Substance of examination to be written.—The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

4. Consequence of refusal or inability of pleader to answer.—(1) Where the pleader of any party who appears by a pleader or any such person accompanying a pleader as is referred to in Rule 2, refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court ⁴[may postpone the hearing of the suit to a day not later than seven days from the date of first hearing] and direct that such party shall appear in person on such day.

(2) If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pronounce judgment against him, or make such order in relation to the suit as it thinks fit.

1. Ins. by Act 46 of 1999, Sec.20 (w.e.f.1-7-2002).

2. Subs. by Act 104 of 1976, Sec.60 for Rule 2 (w.e.f.1-2-1977).

3. This rule is not applicable to the Chief Court of Oudh, see the Oudh Court Act, 1925 (U.P.4 of 1925), Sec.16(2).

4. Subs. by Act 46 of 1999, Sec.20, for "may postpone the hearing of the suit to a future day" (w.e.f.1-7-2002).

ORDER XI

DISCOVERY AND INSPECTION

1. Discovery by interrogatories.—In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided also that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

2. Particular interrogatories to be submitted.—On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court¹ [and that Court shall decide within seven days from the day of filing of the said application]. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

3. Costs of interrogatories.—In adjusting the costs of the suit, inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the Court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

4. Form of interrogatories.—Interrogatories shall be in Form No.2 in Appendix C, with such variations as circumstances may require.

5. Corporations.—Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

6. Objections to interrogatories by answer.—Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage,² [or on the ground of privilege or any other ground], may be taken in the affidavit in answer.

7. Setting aside and striking out interrogatories.—Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous; and any application for this purpose may be made within seven days after service of the interrogatories.

8. Affidavit in answer, filing.—Interrogatories shall be answered by affidavit to be filed within ten days or within such other time as the Court may allow.

1. Ins. by Act 46 of 1999, Sec.21 (w.e.f.1-7-2002).

2. Subs. by Act 104 of 1976, Sec.61, for certain words (w.e.f.1-2-1977).

9. Form of affidavit in answer.—An affidavit in answer to interrogatories shall be in Form No.3 in Appendix C, with such variations as circumstances may require.

10. No exception to be taken.—No exception shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court.

11. Order to answer or answer further.—Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further, either by affidavit or by *viva voce* examination, as the Court may direct.

12. Application for discovery of documents.—Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of document, as may, in its discretion be thought fit:

Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

13. Affidavit of documents.—The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made, shall specify which (if any) of the documents therein mentioned he objects to produce, and it shall be Form No.5 in Appendix C, with such variations as circumstances may require.

14. Production of documents.—It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party hereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

15. Inspection of documents referred to in pleadings or affidavits.—Every party to a suit shall be entitled ¹[at or before the settlement of issue] to give notice to any other party, in whose pleadings or affidavits reference is made to any document ²[or who has entered any document in any list annexed to his pleadings,] or produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice, in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

16. Notice to produce.—Notice to any party to produce any documents referred to in his pleading or affidavits shall be in Form No.7 in Appendix C, with such variations as circumstances may require.

1. Subs by Act 46 of 1999, Sec.21, for "at any time" (w.e.f.1-7-2002).

2. Ins. by Act 104 of 1976, Sec.61 (w.e.f.1-2-1977).

17. Time for inspection when notice given.—The party to whom such notice is given shall, within ten days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his pleader, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice shall be in Form No. 8 in Appendix C, with such variations as circumstances may require.

18. Order for inspection.—(1) Where the party served with notice under Rule 15 omits to give such notice of a time for inspection or objects to give inspection, or offers inspection elsewhere than at the office of his pleader, the Court may, on the application of the party desiring it, make an order for inspection in such place and in such manner as it may think fit.

Provided that the order shall not be made when and so far as the Court shall be of opinion that, it is not necessary either for disposing fairly of the suit or for saving costs.

(2) Any application to inspect documents, except such as are referred to in the pleadings, particulars or affidavits of the party against whom the application is made or disclosed in his affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. The Court shall not make such order for inspection of such documents when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

19. Verified copies.—(1) Where inspection of any business books is applied for, the Court may, if it thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book any and what erasures, interlineations or alterations:

Provided that, notwithstanding that such copy has been supplied, the Court may order inspection of the book from which the copy was made.

(2) Where on an application for an order for inspection privilege is claimed for any document, it shall be lawful for the Court to inspect the document for the purpose of deciding as to the validity of the claim of privilege ¹[unless the document relates to matters of State].

(3) The Court may, on the application of any party to a suit at any time, and whether an affidavit of documents shall or shall not have already been ordered or made, make an order requiring any other party to state by affidavit whether any one or more specific documents, to be specified in the application, is or are, or has or have at any time been, in his possession or power; and, if not then in his possession, when he parted with the same and what has become thereof. Such application shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has, or has at some time had, in his possession or power the document or documents specified in the application, and that they relate to the matters in question in the suit, or to some of them.

20. Premature discovery.—Where the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court may if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question

1. Ins. by Act 104 of 1976, Sec.61 (w.e.f.1-2-1977).

in dispute in the suit, or that for any other reason it is desirable that any issue or question in dispute in the suit should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

21. Non-compliance with order for discovery.—¹[(1)] Where any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect and ²[an order may be made on such application accordingly, after notice to the parties and after giving them a reasonable opportunity of being heard.]

³[(2) Where an order is made under sub-rule (1) dismissing any suit, the plaintiff shall be precluded from bringing a fresh suit on the same cause of action.]

22. Using answers to interrogatories at trial.—Any party may, at the trial of a suit, use in evidence any one or more of the answers or any part of an answer of the opposite party to interrogatories without putting in the others or the whole of such answer:

Provided always that in such case the Court may look at the whole of the answers, and if it shall be of opinion that any others of them are so connected with those put in that the last-mentioned answers ought not to be used without them, it may direct them to be put in.

23. Order to apply to minors.—This Order shall apply to minor plaintiffs and defendants, and to the next friends and guardians for the suit of persons under disability.

ORDER XII

ADMISSIONS

1. Notice of admission of case.—Any party to a suit may give notice, by his pleading, or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party.

2. Notice to admit documents.—Either party may call upon the other party ⁴[to admit, within ⁵[seven] days from the date of service of the notice any document,] saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given, except where the omission to give the notice is, in the opinion of the Court, a saving of expense.

⁶[**2A. Document to be deemed to be admitted if not denied after service of notice to admit documents.**—(1) Every document which a party is called upon to admit, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of that party or in his reply to the notice to admit documents, shall be deemed to be admitted except as against a person under a disability:

Provided that the Court may, in its discretion and for reasons to be recorded, require any

1. Rule 21 renumbered as sub-rule (1) of that rule by Act 104 of 1976, Sec.61 (w.e.f.1-2-1977).

2. Subs by Act 104 of 1976, Sec.61, for "an order may be accordingly" (w.e.f.1-2-1977).

3. Ins. by Act 104 of 1976, Sec.61 (w.e.f.1-2-1977).

4. Subs. by Act 104 of 1976, Sec.62, for "to admit any document" (w.e.f.1-2-1977).

5. Subs. by Act 46 of 1999, Sec.22, for "fifteen" (w.e.f.1-2-1977).

6. Ins. by Act 104 of 1976, Sec.61 (w.e.f.1-2-1977).

document so admitted to be proved otherwise than by such admission.

(2) Where a party unreasonably neglects or refuses to admit a document after the service on him of the notice to admit documents, the Court may direct him to pay costs to the other party by way of compensation.]

3. Form of notice.—A notice to admit document shall be in Form No. 9 in Appendix C, with such variations as circumstances may require.

¹[**3A. Power of Court to record admission.**—Notwithstanding that no notice to admit documents has been given under Rule 2, the Court may, at any stage of the proceeding before it, of its own motion, call upon any party to admit any document and shall, in such a case, record whether the party admits or refuses or neglects to admit such document.]

4. Notice to admit facts.—Any party, may, by notice in writing, at any time not later than nine days before the day fixed for the hearing, call on any other party to admit, for the purposes of the suit only, any specific fact or facts, mentioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by the Court, the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs;

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purpose of the particular suit, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice.

²[***]

5. Form of admission.—A notice to admit facts shall be in Form No.10 in Appendix C, and admission of facts shall be in Form No.11 in Appendix C, with such variations as circumstances may require.

³[**6. Judgment on admissions.**—(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.]

7. Affidavit of signature.—An affidavit of the pleader or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof is required.

8. Notice to produce documents.— Notice to produce documents shall be in Form No. 12 in Appendix C, with such variations as circumstances may require. An affidavit of the pleader, or his clerk, of the service of any notice to produce, and of the time when it was served, with a copy of the notice to produce, shall in all cases be sufficient evidence of the service of the notice, and of the time when it was served.

9. Costs.— If a notice to admit or produce specifies documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice.

1. Ins. by Act 66 of 1956, Sec.14 (w.e.f.1-2-1977).

2. Second proviso omitted by Act 46 of 1999, Sec.22 (w.e.f.1-2-1977).

3. Subs. by Act 104 of 1976, Sec.62, for Rule 6 (w.e.f.1-2-1977).

ORDER XIII**PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS**

1. Original documents to be produced at or before the settlement of issues.- (1) The parties or their pleader shall produce on or before the settlement of issues, all the documentary evidence in original where the copies thereof have been filed alongwith plaint or written statement.

(2) The Court shall receive the documents so produced:

Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs.

(3) Nothing in sub-rule (1) shall apply to documents—

(a) produced for the cross-examination of the witnesses of the other party; or

(b) handed over to a witness merely to refresh his memory.]

2. Rejection of irrelevant or inadmissible documents.- The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

3. Endorsements on documents admitted in evidence.-(1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:-

(a) the number and title of the suit,

(b) the name of the person producing the documents,

(c) the date on which it was produced, and

(d) a statement of its having been so admitted,

and the endorsement shall be signed or initialled by the Judge.

(2) Where a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following rule, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed or initialled by the Judge.

4. Endorsements on copies of admitted entries in books, accounts and records.- (1) Save in so far as is otherwise provided by the Banker's Books Evidence Act, 1891 (18 of 1891) where a document admitted in evidence in the suit is an entry in a letter-book or a shop-book or other account in current use, the party on whose behalf the book or account is produced may furnish a copy of the entry.

(2) Where such document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

(a) where the record, book or account is produced on behalf of a party, then by that party, or

(b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(3) Where a copy of an entry is furnished under the foregoing provisions of this rule, the Court shall, after causing the copy to be examined, compared and certified in manner mentioned in Rule 17 of Order VII, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

5. Endorsements on documents rejected as inadmissible in evidence.- Where a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of Rule 4, Sub-rule (1) together with a statement of its having been rejected, and the endorsement shall be signed or initialled by the Judge.

6. Recording of admitted and return of rejected documents.- (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under Rule 5, shall form part of the record of the suit.

(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the persons respectively producing them.

7. Court may order any document to be impounded.- Notwithstanding anything contained in Rule 5 or Rule 7 of this Order or in Rule 17 of Order VII, the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

8. Return of admitted documents.- (1) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under Rule 8, be entitled to receive back the same,—

- (a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and
- (b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of:

¹[Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor—

- (a) delivers to the proper officer for being substituted for the original,—
 - (i) in the case of a party to the suit, a certified copy, and
 - (ii) in the case of any other person, an ordinary copy which has been examined, compared and certified in the manner mentioned in Sub-rule (2) of Rule 17 of Order VII, and
- (b) undertakes to produce the original, if required to do so:]

Provided also, that no document shall be returned which, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.

9. Court may send for papers from its own records or from other Courts.- (1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

(2) Every application made under this rule shall (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly auth-

nticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purpose of justice.

(3) Nothing contained in this rule shall be deemed to enable the Court to use in evidence any document which under the law of evidence would be inadmissible in the suit.

10. Provisions as to documents applied to material objects.- The provisions herein contained as to documents shall, as far as may be, apply to all other material objects producible as evidence.

ORDER XIV

SETTLEMENT OF ISSUES AND DETERMINATION OF SUIT ON ISSUES OF LAW OR ON ISSUES AGREED UPON

1. Framing of issues.- (1) Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege, in order to show a right to sue, or a defendant must allege, in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of a distinct issue.

(4) Issues are of two kinds:

- (a) issues of fact,
- (b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, if any, and ¹[after examination under Rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.

²[2. Court to pronounce judgment on all issues.- (1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to—

- (a) the jurisdiction of the Court, or
- (b) a bar to the suit created by any law for the time being in force,

and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.]

3. Materials from which issues may be framed.- The Court may frame the issues from all or any of the following materials:-

- (a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties;
- (b) allegations made in the pleadings or in answers to interrogatories delivered in the suit;

1. Subs. by Act 104 of 1976, Sec.64, for certain words (w.e.f.1-2-1977).

2. Subs. by Act 104 of 1976, Sec.64, for rule (w.e.f.1-2-1977).

(c) the contents of documents produced by either party.

4. Court may examine witness or documents before framing issues.- Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court or without the inspection of some document not produced in the suit, ¹[may adjourn the framing of the issues to a day not later than seven days], and may (subject to any law for the time being in force) compel the attendance of any person or the production of any document by the person in whose possession or power it is by summons or other process.

²**[5. Power to amend and strike out issues.-** (1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.]

6. Questions of fact or law may by agreement be stated in form of issues.- Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing that, upon the finding of the Court in the affirmative or the negative of such issue,—

- (a) a sum of money specified in the agreement or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject some liability specified in the agreement;
- (b) some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct; or
- (c) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in dispute.

7. Court, if satisfied that agreement was executed in good faith, may pronounce judgment.- Where the Court is satisfied, after making such inquiry as it deems proper,—

- (a) that the agreement was duly executed by the parties;
- (b) that they have a substantial interest in the decision of such question as aforesaid, and
- (c) that the same is fit to be tried and decided,

it shall proceed to record and try the issue and state its finding or decision thereon in the same manner as if the issue had been framed by the Court,

and shall, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement; and, upon the judgment so pronounced a decree shall follow.

ORDER XV

DISPOSAL OF THE SUIT AT THE FIRST HEARING

1. Parties not at issue.- Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

2. One of several defendants not at issue.- ³[(1)] Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or of

1. Subs. by Act 46 of 1999, Sec.24, for "may adjourn the framing of the issues to a future day" (w.e.f. 1-7-2002).
 2. Rule 5 omitted by Act 46 of 1999, Sec.24 and again subs. by Act 22 of 2002, Sec.11(w.e.f. 1-7-2002).
 3. Rule 2 renumbered as Sub-rule (1) of that rule by Act 104 of 1976, Sec.65 (w.e.f. 1-2-1977).

fact, the Court may at once pronounce judgment for or against such defendant and the suit shall proceed only against the other defendants.

¹[(2) Whenever a judgment is pronounced under this rule, a decree shall be drawn up in accordance with such judgment and the decree shall bear the date on which the judgment was pronounced.]

3. Parties at issue.- (1) Where the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court is satisfied that no further argument or evidence than the parties can at once adduce is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them objects.

(2) Where the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument as the case requires.

4. Failure to produce evidence.- Where the summons has been issued for the final disposal of the suit and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment, or may, if it thinks fit, after framing and recording issues, adjourn the suit for the production of such evidence as may be necessary for its decision upon such issues.

ORDER XVI

SUMMONING AND ATTENDANCE OF WITNESSES

²[1. **List of witnesses and summons to witnesses.-** (1) On or before such date as the Court may appoint, and not later than fifteen days after the date on which the issues are settled, the parties shall present in Court a list of witnesses whom they propose to call either to give evidence or to produce documents and obtain summonses to such persons for their attendance in Court.

(2) A party desirous of obtaining any summons for the attendance of any person shall file in Court an application stating therein the purpose for which the witness is proposed to be summoned.

(3) The Court may, for reasons to be recorded, permit a party to call, whether by summoning through Court or otherwise, any witness, other than those whose names appear in the list referred to in sub-rule (1), if such party shows sufficient cause for the omission to mention the name of such witness in the said list.

(4) Subject to the provisions of sub-rule (2), summonses referred to in this rule may be obtained by the parties on an application to the Court or to such officer as may be appointed by the ³[Court in this behalf within five days of presenting the list of witnesses under sub-rule (1)].]

1. Ins. by Act 104 of 1976, Sec.65 (w.e.f. 1-2-1977).

2. Subs. by Act 104 of 1976, Sec.66, for Rule 1 (w.e.f. 1-2-1977).

3. Subs. by Act 46 of 1999, Sec.25, for "Court in this behalf" (w.e.f. 1-7-2002).

¹[**1A. Production of witnesses without summons.-** Subject to the provisions of sub-rule (3) of Rule 1, any party to the suit may, without applying for summons under Rule 1, bring any witness to give evidence or to produce documents.]

2. Expenses of witness to be paid into Court on applying for summons.- (1) The party applying for a summons shall, before the summons is granted and within a period to be fixed ²[which shall not be later than seven days from the date of making application under sub-rule (4) of Rule 1], pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

(2) Experts.- In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

(3) Scale of expenses.- Where the Court is subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

³[**(4) Expenses to be directly paid to witnesses.-** Where the summons is served directly by the party on a witness, the expenses referred to in sub-rule (1) shall be paid to the witness by the party or his agent.]

3. Tender of expenses to witness.- The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

4. Procedure where insufficient sum paid in.- (1) Where it appears to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses or reasonable remuneration, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the movable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

(2) Expenses of witnesses detained more than one day.- Where it is necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the movable property of such party; or the Court may discharge the person summoned without requiring him to give evidence; or the Court may both order such levy and discharge such person as aforesaid.

5. Time, place and purpose of attendance to be specified in summons.- Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

6. Summons to produce document.- Any person may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to

1. Subs. by Act 104 of 1976, Sec.66, for Rule 1A (w.e.f. 1-2-1977).

2. Ins. by Act 46 of 1999, Sec.25 (w.e.f. 1-7-2002).

3. Ins. by Act 104 of 1976, Sec.66 (w.e.f. 1-2-1977).

produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

7. Power to require persons present in Court to give evidence or produce document.- Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his possession or power.

¹[7A. Summons given to party for service.- (1) The Court may, on the application of any party for the issue of a summons for the attendance of any person, permit such party to effect service of such summons on such person and shall, in such a case, deliver the summons to such party for service.

(2) The service of such summons shall be effected by or on behalf of such party by delivering or tendering to the witness personally a copy thereof signed by the Judge or such officer of the Court as he may appoint in this behalf and sealed with the seal of the Court.

(3) The provisions of Rules 16 and 18 of Order V shall apply to a summons personally served under this rule as if the person effecting service were a serving officer.

(4) If such summons, when tendered, is refused or if the person served refuses to sign an acknowledgement of service or for any reason such summons cannot be served personally, the Court shall, on the application of the party, re-issue such summons to be served by the Court in the same manner as a summons to a defendant.

(5) Where a summons is served by a party under this rule, the party shall not be required to pay the fees otherwise chargeable for the service of summons.]

8. Summons how served.- Every summons ²[under this Order, not being a summons delivered to a party for service under Rule 7A,] shall be served as nearly as may be in the same manner as summons to a defendant and the rules in Order V as to proof of service shall apply in the case of all summonses served under this rule.

9. Time for serving summons.- Service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

10. Procedure where witness fails to comply with summons.- ³[(1) Where a person to whom a summons has been issued either to attend to give evidence or to produce a document, fails to attend or to produce the document in compliance with such summons, the court—

(a) shall, if the certificate of the serving officer has not been verified by affidavit, or if service of the summons has been effected by a party or his agent, or

(b) may, if the certificate of the serving officer has been so verified, examine on oath the service, or cause him to be so examined by any Court, touching the service or non-service of the summons.]

(2) Where the Court sees reason to believe that such evidence or production is material, and that such person has, without lawful excuse, failed to attend or to produce the document in compliance with such summons or has intentionally avoided service, it may issue a proclamation requiring him to attend to give evidence or to produce the document at a time and place to be

1. Ins. by Act 104 of 1976, Sec.66 (w.e.f. 1-2-1977).

2. Subs. by Act 104 of 1976, Sec.66, for "under this Order" (w.e.f. 1-2-1977).

3. Subs. by Act 104 of 1976, Sec.66, for Sub-rule (1) (w.e.f. 1-2-1977).

named therein; and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

(3) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such person, and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the costs of attachment and of any fine which may be imposed under Rule 12:

Provided that no Court of Small Causes shall make an order for the attachment of immovable property.

11. If witness appears, attachment may be withdrawn.- Where, at any time after the attachment of his property, such person appears and satisfies the Court,—

- (a) that he did not, without lawful excuse, fail to comply with the summons or intentionally avoid service, and
- (b) where he has failed to attend at the time and place named in a proclamation issued under the last preceding rule, that he had no notice of such proclamation in time to attend,

the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

12. Procedure if witness fails to appear.-¹[(1)] The Court may, where such person does not appear, or appears but fails so to satisfy the Court, impose upon him such fine not exceeding five hundred rupees as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order his property, or any part thereof, to be attached and sold or, if already attached under Rule 10, to be sold for the purpose of satisfying all costs of such attachment, together with the amount of the said fine, if any:

Provided that, if the person whose attendance is required pays into Court the costs and fine aforesaid, the Court shall order the property to be released from attachment.

²[(2) Notwithstanding that the Court has not issued a proclamation under sub-rule (2) of Rule 10, nor issued a warrant nor ordered attachment under sub-rule (3) of that rule, the Court may impose fine under sub-rule (1) of this rule after giving notice to such person to show cause why the fine should not be imposed.]

13. Mode of attachment.- The provisions with regard to the attachment and sale of property in the execution of a decree shall, so far as they are applicable, be deemed to apply to any attachment and sale under this order as if the person whose property is so attached were a judgment-debtor.

14. Court may of its own accord summon as witnesses strangers to suit.- Subject to the provisions of this Code as to attendance and appearance and to any law for the time being in force, where the Court at any time thinks it necessary³[to examine any person, including a party to the suit], and not called as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine him as a witness or require him to produce such document.

1. Rule 12 renumbered as Sub-rule (1) of that rule by Act 104 of 1976, Sec.66 (w.e.f. 1-2-1977).

2. Ins. by Act 104 of 1976, Sec.66 (w.e.f. 1-2-1977).

3. Subs. by Act 104 of 1976, Sec.66, for certain words (w.e.f. 1-2-1977).

15. Duty of persons summoned to give evidence or produce document.- Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

16. When they may depart.- (1) A person so summoned and attending shall unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

(2) On the application of either party and the payment through the Court of all necessary expenses (if any), the Court may require any person so summoned and attending to furnish security to attend at the next or any other hearing or until the suit is disposed of and, in default of his furnishing such security, may order him to be detained in the civil prison.

17. Application of Rules 10 to 13.- The provisions of Rules 10 to 13 shall, so far as they are applicable, be deemed to apply to any person who having attended in compliance with a summons departs, without lawful excuse, in contravention of Rule 16.

18. Procedure where witness apprehended cannot give evidence or produce document.- Where any person arrested under a warrant is brought before the Court in custody and cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and, on such bail or security being given, may release him, and, in default of his giving such bail or security, may order him to be detained in the civil prison.

19. No witness to be ordered to attend in person unless resident within certain limits.- No one shall be ordered to attend in person to give evidence unless he resides—

- (a) within the local limits of the Court's ordinary original jurisdiction, or
- (b) without such limits but at a place less than ¹[one hundred] or (where there is railway or steamer communication or other established public conveyance for five sixths of the distance between the place where he resides and the place where the Court is situate) less than ²[five hundred kilometres] distance from the Court-house:

³[Provided that where transport by air is available between the two places mentioned in this rule and the witness is paid the fare by air, he may be ordered to attend in person.]

20. Consequence of refusal of party to give evidence when called on by Court.- Where any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and there in his possession or power, the Court may pronounce judgment against him or make such order in relation to the suit as it thinks fit.

21. Rules as to witnesses to apply to parties summoned.- Where any party to a suit is required to give evidence or to produce a document, the provisions as to witnesses shall apply to him so far as they are applicable.

1. Subs. by Act 104 of 1976, Sec.66, for "fifty" (w.e.f. 1-2-1977).

2. Subs. by Act 104 of 1976, Sec.66, for "two hundred miles" (w.e.f. 1-2-1977).

3. Added by Act 104 of 1976, Sec.66 (w.e.f. 1-2-1977).

¹[ORDER XVIA**ATTENDANCE OF WITNESSES CONFINED OR DETAINED IN PRISONS****1. Definitions.-** In this Order,—

- (a) “detained” includes detained under any law providing for preventive detention;
- (b) “prison” includes—
 - (i) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail; and
 - (ii) any reformatory, borstal institution or other institution of a like nature.

2. Power to require attendance of prisoners to give evidence.- Where it appears to a Court that the evidence of a person confined or detained in a prison within the State is material in a suit, the Court may make an order requiring the officer in charge of the prison to produce that person before the Court to give evidence:

Provided that, if the distance from the prison to the Court-house is more than twenty-five kilometres, no such order shall be made unless the Court is satisfied that the examination of such person on commission will not be adequate.

3. Expenses to be paid into Court.- (1) Before making any order under Rule 2, the Court shall require the party at whose instance or for whose benefit the order is to be issued, to pay into Court such sum of money as appears to the Court to be sufficient to defray the expenses of the execution of the order, including the travelling and other expenses of the escort provided for the witness.

(2) Where the Court is subordinate to a High Court, regards shall be had, in fixing the scale of such expenses, to any rules made by the High Court in that behalf.

4. Power of State Government to exclude certain persons from the operation of Rule 2.- (1) The State Government may, at any time, having regard to the matters specified in sub-rule (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under Rule 2, whether before or after the date of the order made by the State Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under Sub-rule (1), the State Government shall have regard to the following matters, namely:-

- (a) the nature of the offence for which, or the grounds on which, the person or class of persons have been ordered to be confined or detained in prison;
- (b) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison; and
- (c) the public interest, generally.

5. Officer in charge of prison to abstain from carrying out order in certain cases.- Where the person in respect of whom an order is made under Rule 2—

- (a) is certified by the medical officer attached to the prison as unfit to be removed from the prison by reason of sickness or infirmity; or
- (b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

(c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or

(d) is a person to whom an order made by the Sate Government under Rule 4 applies, the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining.

6. Prisoner to be brought to Court in custody.- In any other case, the officer in charge of the prison shall, upon delivery of the Court's order, cause the person named therein to be taken to the Court so as to be present at the time mentioned in such order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorizes him to be taken back to the prison in which he is confined or detained.

7. Power to issue commission for examination of witness in prison.- (1) Where it appears to the Court that the evidence of a person confined or detained in a prison, whether within the State or elsewhere in India, is material in a suit but the attendance of such person cannot be secured under the preceding provisions of this Order, the Court may issue a commission for the examination of that person in the prison in which he is confined or detained.

(2) The provisions of Order XXVI shall, so far as may be, apply in relation to the examination on commission of such person in prison as they apply in relation to the examination on commission of any other person.]

ORDER XVII ADJOURNMENTS

1. Court may grant time and adjourn hearing.- ¹[(1) The Court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the suits.]

(2) Costs of adjournment.- In every such case the Court shall fix a day for the further hearing of the suit, and ²[shall make such orders as to costs occasioned by the adjournment or such higher costs as the Court deems fit]:

³[Provided that,—

- (a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witness in attendance have been examined, unless the Court finds that, for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary.
- (b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party,
- (c) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment,
- (d) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another Court, is put forward as a ground for adjournment, the Court shall not grant the adjournment unless it is satisfied that

1. Subs. by Act 46 of 1999, Sec.26, for sub-rule (1) (w.e.f. 1-7-2002).

2. Subs. by Act 46 of 1999, Sec.26, for certain words (w.e.f. 1-7-2002).

3. Subs. by Act 104 of 1976, Sec.68, for the proviso (w.e.f. 1-2-1977).

the party applying for adjournment could not have engaged another pleader in time,

- (e) where a witness is present in Court but party or his pleader is not present or the party or his pleader, though present in Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid.]

2. Procedure if parties fail to appear on day fixed.- Where, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Order IX or make such other order as it thinks fit.

¹[*Explanation.-* Where the evidence or a substantial portion of the evidence of any party has already been recorded and such party fails to appear on any day to which the hearing of the suit is adjourned, the Court may, in its discretion, proceed with the case as if such party were present.]

3. Court may proceed notwithstanding either party fails to produce evidence, etc.- Where any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, ²[the Court may, notwithstanding such default,—

- (a) if the parties are present, proceed to decide the suit forthwith, or
- (b) if the parties are, or any of them is, absent, proceed under Rule 2].

ORDER XVIII

HEARING OF THE SUIT AND EXAMINATION OF WITNESSES

1. Right to begin.- The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

2. Statement and production of evidence.- (1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.

(3) The party beginning may then reply generally on the whole case.

³[(3A) Any party may address oral arguments in a case, and shall, before he concludes the oral arguments, if any, submit if the Court so permits concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3B) A copy of such written arguments shall be simultaneously furnished to the opposite party.

1. Ins. by Act 104 of 1976, Sec.68 (w.e.f. 1-2-1977).

2. Subs. by Act 104 of 1976, Sec.68, for certain words (w.e.f. 1-2-1977).

3. Ins. by Act 22 of 2002, Sec.12 (w.e.f. 1-7-2002).

(3C) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3D) The Court shall fix such time-limits for the oral arguments by either of the parties in a case, as it thinks fit.]

¹[***]

3. Evidence where there are several issues.- Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

²[**3A. Party to appear before other witnesses.-** Where a party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined, unless the Court, for reasons to be recorded, permits him to appear as his own witness at a later stage.]

³[**4. Recording of evidence.-** (1) In every case, the examination-in-chief of a witness shall be on affidavit and copies thereof shall be supplied to the opposite party by the party who calls him for evidence:

Provided that where documents are filed and the parties rely upon the documents, the proof and admissibility of such documents which are filed along with affidavit shall be subject to the orders of the Court.

(2) The evidence (cross-examination and re-examination) of the witness in attendance, whose evidence (examination-in-chief) by affidavit has been furnished to the Court shall be taken either by the Court or by the Commissioner appointed by it:

Provided that the Court may, while appointing a commission under this sub-rule, consider taking into account such relevant factors as it thinks fit:

(3) The Court or the Commissioner, as the case may be, shall record evidence either in writing or mechanically in the presence of the Judge or of the Commissioner, as the case may be, and where such evidence is recorded by the Commissioner he shall return such evidence together with his report in writing signed by him to the Court appointing him and the evidence taken under it shall form part of the record of the suit.

(4) The Commissioner may record such remarks as it thinks material respecting the demeanour of any witness while under examination:

Provided that any objection raised during the recording of evidence before the Commissioner shall be recorded by him and decided by the Court at the stage of arguments.

(5) The report of the Commissioner shall be submitted to the Court appointing the commission within sixty days from the date of issue of the commission unless the Court for reasons to be recorded in writing extends the time.

(6) The High Court or the District Judge, as the case may be, shall prepare a panel of Commissioners to record the evidence under this rule.

1. Sub-rule (4) Ins. by Act 104 of 1976, Sec.69 (w.e.f. 1-2-1977) and omitted by Act 46 of 1999, Sec.27 (w.e.f. 1-7-2002).

2. Ins. by Act 104 of 1976, Sec.69 (w.e.f. 1-2-1977).

3. Rule 4 subs. by Act 46 of 1999, Sec.27 and again subs. by Act 22 of 2002, Sec.12 (w.e.f. 1-7-2002).

(7) The Court may by general or special order fix the amount to be paid as remuneration for the services of the Commissioner.

(8) The provisions of Rules 16, 16A, 17 and 18 of Order XXVI, in so far as they are applicable, shall apply to the issue, execution and return of such commission under this rule.]

¹[² **5. How evidence shall be taken in appealable cases.-** In cases in which an appeal is allowed, the evidence of each witness shall be,—

(a) taken down in the language of the Court,—

(i) in writing by, or in the presence and under the personal direction and superintendence of, the Judge, or

(ii) from the dictation of the Judge directly on a typewriter; or

(b) if the Judge, for reasons to be recorded, so directs, recorded mechanically in the language of the Court in the presence of the Judge.]

²**6. When deposition to be interpreted.-** Where the evidence is taken down in language different from that in which it is given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it is given.

²**7. Evidence under Section 138.-** Evidence taken down under Section 138 shall be in the form prescribed by Rule 5 and shall be read over and signed and, as occasion may require, interpreted and corrected as if it were evidence taken down under that rule.

²**8. Memorandum when evidence not taken down by Judge.-** Where the evidence is not taken down in writing by the Judge, ³[or from his dictation in the open Court, or recorded mechanically in his presence,] he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge and shall form part of the record.

⁴[²**9. When evidence may be taken in English.-** (1) Where English is not the language of the Court, but all the Parties to the suit who appear in person, and the pleaders of such of the parties as appear by pleaders, do not object to having such evidence as is given in English, being taken down in English, the Judge may so take it down or cause it to be taken down.

(2) Where evidence is not given in English but all the parties who appear in person, and the pleaders of such of the parties as appear by pleaders, do not object to having such evidence being taken down in English, the Judge may take down, or cause to be taken down, such evidence in English.]

10. Any particular question and answer may be taken down.- The Court may, of its own motion or on the application of any party or his pleader, take down any particular question and answer, or any objection to any question, if there appears to be any special reason for so doing.

²**11. Questions objected to and allowed by Court.-** Where any question put to a witness is objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

1. Subs. by Act 104 of 1976, Sec.69, for Rule 5 (w.e.f. 1-2-1977).

2. The provisions of Rules 5,6,7,8,9,11,13,14,15 and 16, so far as they relate to the manner of taking evidence, are not applicable to the Chief Court of Oudh, see the Oudh Courts Act, 1925 (U.P.Act 4 of 1925) Sec.16 (2).

3. Ins.by Act 104 of 1976, Sec.69 (w.e.f. 1-2-1977).

4. Subs. by Act 104 of 1976, Sec.69, for Rule 9 (w.e.f. 1-2-1977).

12. Remarks on demeanour of witnesses.—The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

¹**13. Memorandum of evidence in unappealable cases.**—In cases in which an appeal is not allowed, it shall not be necessary to take down or dictate or record the evidence of the witnesses at length; but the Judge, as the examination of each witness proceeds, shall make in writing, or dictate directly to the typewriter, or cause to be mechanically recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the Judge or otherwise authenticated, and shall form part of the record.]

³[***]

15. Power to deal with evidence taken before another Judge.—(1) Where a Judge is prevented by death, transfer or other cause from concluding the trial of a suit, his successor may deal with any evidence or memorandum taken down or made under the foregoing rules as if such evidence or memorandum had been taken down or made by him or under his direction under the said rules and may proceed with the suit from the stage at which his predecessor left it.

(2) The provisions of Sub-rule (1) shall, so far as they are applicable, be deemed to apply to evidence taken in a suit transferred under Section 24.

16. Power to examine witness immediately.—(1) Where a witness is about to leave the jurisdiction of the Court, or the Court, or other sufficient cause is shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of any party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

(2) Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient, of the day fixed for the examination, shall be given to the parties.

(3) The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and the Judge shall, if necessary, correct the same, and shall sign it, and it may then be read at any hearing of the suit.

17. Court may recall and examine witness.—The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit.

⁴[***]

18. Power of Court to inspect.—The Court may at any stage of a suit inspect any property or thing concerning which any question may arise ¹[and where the Court inspects any property or thing it shall, as soon as may be practicable, make a memorandum of any relevant facts observed at such inspection and such memorandum shall form a part of the record of the suit].

[19. Power to get statements recorded on commission.—Notwithstanding anything contained in these rules, the Court may, instead of examining witnesses in open Court, direct their statements to be recorded on commission under Rule 4A of Order XXVI.]

1. The provisions of Rules 5, 6, 7, 8, 9, 11, 13, 14, 15 and 16, so far as they relate to the manner of taking evidence are not applicable to the Chief Court of Oudh, *see* the Oudh Courts Act, 1925 (U.P. Act 4 of 1925), Sec.16(2).

2. Subs. by Act 104 of 1976, Sec.69, for Rule 13 (w.e.f. 1-2-1977).

3. Rule 14 omitted by Act 104 of 1976, Sec.69 (w.e.f. 1-2-1977).

4. Rule 17A ins. by Act 104 of 1976, Sec.69 (w.e.f. 1-2-1977) and omitted by Act 46 of 1999, Sec.27 (w.e.f. 1-7-2002).

THE TAMIL NADU COURT OF WARDS ACT (1 of 1902).

[As amended by Act XVII of 1933 Adaptation (Amendment) Order, 1970 and Madras Repealing and Amending Act (XXV of 1957)]

[Received the assent of the Governor on the 22nd February, 1902, and that of the Viceroy and Governor-General on the 7th May, 1902; the Governor-General's assent was first published in the Fort St. George Gazette on the 27th May, 1902.]

An Act to consolidate and amend the law relating to the Court of Wards in the Madras Presidency.

Preamble. - WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Presidency of Madras; it is hereby enacted as follows: -

CHAPTER I.

Preliminary.

1. Short title and extent. - This Act may be called THE ¹[TAMIL NADU] COURT OF WARDS ACT, 1902.

It extends to the ¹[State of Tamil Nadu] ²[]

2. Laws repealed. - Sec.25 of the Madras Collectors Regulation, 1803, the Madras Court of Wards Regulation, 1804, the Madras Minors Act, 1855, and the Madras Court of Wards (Amendment) Act, 1899, are hereby repealed.

3. Jurisdiction of High Court saved. - Nothing in this Act shall be construed to affect or in any way to derogate from any power possessed by the High Court of Madras over the persons and estates of infants, idiots, and lunatics.

4. Definitions. - In this Act, unless there is something repugnant in the subject or context:
Court. - "The Court" means the Court of Wards.

Ward. - "Ward" means a person who has been made a ward of the Court under Sec.19.

Minor. - "Minor" means a person who, under the provisions of the Indian Majority Act, 1875, as amended by Sec.52 of the Guardian and Wards Act, 1890, has not attained majority.

Proprietor. - "Proprietor" means a person who owns or has a life interest in land either solely or as a co-sharer.

CHAPTER II.

The Court of Wards

5. Court of Wards. - The Board of Revenue shall be the Court of Wards for the territories of which this Act extends, and for the purposes of this Act, Collectors shall be subject to the control of the Court.

6. Control of State Government. - The Court of Wards shall be subject to the control of the ³[State Government] and the ³[State Government] may, if it thinks fit, revise, modify, or reverse, any order passed, or proceedings taken under this Act, whether a petition is presented against such order or proceeding or not.

1. Substituted for "Madras" by Tamil Nadu Act of 1969.

2. The words 'exclusive of the scheduled districts' were omitted by the Madras Adaptation of Laws Order, 1957.

3. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

7. Distribution of Business. - (1) Secs.2, 3 and 4, of the Madras Board of Revenue Act, 1894,² shall, so far as may be, apply to the Board of Revenue when exercising jurisdiction as the Court of Wards.

Secretary may sign for Court. - (2) It shall in all cases be lawful for a Secretary of the Board of Revenue to sign on behalf of the Court.

8. Powers of Court how exercised. - The Court may exercise all or any of the powers conferred on it by this Act through the District Collectors in whose districts any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred.

CHAPTER III.

Assumption of Superintendence of persons and property

9. Disqualification. - The following proprietors shall be deemed to be disqualified for the management of their property:

(a) Minors.

(b) Women declared by the ¹[State Government] to be incapable of managing their property.

(c) Proprietors adjudged by a competent civil Court to be of unsound mind and incapable of managing their property.

(d) Proprietors declared by the ¹[State Government] to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property.

10. Immediate protection of disqualified heirs. - (1) Whenever a Collector receives information that a proprietor of land situated in his division or district had died, and he has reason to believe that the heir of such proprietor is, or should be declared to be, disqualified under Sec.9,-

(a) he may take such steps and make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to the heir; and

(b) if the heir be a minor he may direct that the person, if any, having custody of the minor, shall produce him or cause him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor as he thinks proper;

(c) female minors who ought not to be compelled to appear in public shall be produced in accordance with the manners and the customs of the country.

(2) If the Collector taking action under Sub-sec.(1) is not the District Collector, he shall report the matter forthwith to the District Collector, who shall decide whether to direct the Collector to withdraw, or himself to report the matter to the Court as provided in Sec.12.

11. Recovery of expenditure. - All expenses incurred by a Collector, acting under Sec.10, shall, whether the property is afterwards taken under the superintendence of the Court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as an arrear of land-revenue.

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. Now repealed by Tamil Nadu Act XXXVI of 1980.

12. Reports by District Collector. – Whenever any District Collector, after making such inquiry as he deems necessary, has reason to believe that any proprietor in his district is, or should be, declared to be, disqualified under Sec.9, he shall submit a report to the Court setting forth all the circumstances of the case; provided that in case of proprietors of land on which the annual revenue payable to Government is less than Rs.10,000 or of which the annual rent value as defined in the Madras Local Boards Act, 1884¹, is less than Rs.20,000 the District Collector need not report the case to the Court unless he is of opinion that the Court ought to assume the superintendence of the property; provided also that the Court or the ²[State Government] may call for a report on any case, if it thinks fit.

13. Proprietor to be given opportunity to be heard and to adduce evidence.-

(1) Before reporting to the Court under Sec.12 that a proprietor ought to be declared to be disqualified under clause (b) or (d) of Sec.9, the District Collector shall give notice to such proprietor and afford him a reasonable opportunity to be heard and to adduce evidence.

(2) All questions as to whether the provisions of this section have been complied with shall be decided finally by the ¹[State Government].

14. Report by Court. - The Court shall consider the Collector's report and except in the case of female proprietors, not being minors, whom it decides to leave in-charge of their property, shall report the case to the ¹[State Government] with its recommendation and pending the receipt of orders shall have power to take such steps as it may deem necessary for the protection of the person and property of the proprietors in question.

15. State Government may declare proprietor disqualified and direct Court to assume superintendence. - The ¹[State Government] on receipt of the Court's recommendation, may in any case falling under clause (b) or (d) of Sec.9 declare the proprietor to be disqualified, and in any case falling under Sec.9 may order the Court to assume the superintendence of the person or property of the proprietor or of both.

16. Proprietor not to be declared disqualified under Sec.9 (d) unless on ground of public interests. - The ¹[State Government] shall not declare any proprietor to be disqualified under clause (d) of Sec.9 unless satisfied that it is expedient in the public interests that his property should be managed by the Court, and statement to this effect shall be inserted in the declaration made by the ¹[State Government] as provided in Sec.15.

17. Provision to meet case of undivided Hindu families and co-sharers. - (1) The ¹[State Government] shall not order the Court to take the property of an undivided Hindu family under its superintendence unless all the coparceners are, or are declared to be, disqualified under Sec.9.

(2) When two or more proprietors are co-sharers otherwise than as coparceners in an undivided Hindu family and one of such co-sharers is, or is declared to be, disqualified under Sec.9, the ¹[State Government] may order the Court to institute a suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition.

18. Application by proprietor himself. - A proprietor may make application to the ¹[State Government] to have his property placed under the superintendence of the Court, and the ¹[State Government] may, on being satisfied that it is expedient in the public interests that such

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

property should be managed by the Court, make a declaration to that effect and order the Court to assume the superintendence of such property.

19. Notification of assumption of superintendence. - (1) Whenever under Sec.15 or 18 the ¹[State Government] orders the Court to take under its superintendence the person or property of a proprietor or both, such order of the ¹[State Government] together with any declaration made under the aforesaid sections, shall be notified in the ²[Official Gazette] and also in the Gazette of the district in which such property or any portion thereof is situate. The notification shall specify the District Collector who shall discharge the duties imposed upon a Collector by this Act in respect of such person or property or both, as the case may be.

Consequences of such notification. - (2) Such proprietor shall be deemed to have become a ward under the Court, from the date of the said order of the ¹[State Government] and the superintendence of his person or property or of both shall take effect from the said date, and as to property, shall extend to all movable and immovable property belonging to him at the date of the order, or to which he shall afterwards become in any way entitled whilst he continues under such superintendence:

Provided that it shall be in the discretion of the Court to assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of the order of the ¹[State Government] under Sec.15 or 18.

CHAPTER IV.

Management and guardianship.

20. Collector to take charge of ward's property. - When the Court has assumed the superintendence of the property of a ward, the District Collector specified in the notification under Sec.19 or if so directed by the Court, the Collector of the District in which any part of the property is situated shall take possession and custody of such property on behalf of the Court.

21. Powers of Collector in so doing. - It shall be lawful for such Collector:

(a) to order any person in possession of any movable property to the possession of which the ward is entitled, or of any accounts or papers relating to the property of such ward, to deliver up such movable property, accounts or papers;

(b) in case there is reason to believe that any movable property to the possession of which the ward is entitled or any accounts, or papers relating to the property of the ward are to be found in any room, box, or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorize the same to be broken open for the purpose of searching for such property, accounts or papers;

(c) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title, to attend before him for examination and to defray the necessary expenses of any person so attending out of the assets of the estate;

(d) to order all holders of tenures and under-tenures on the ward's property to produce their titles before him.

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937, and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. These words were substituted for the words 'Fort St. George Gazette' by the Adaptation Order of 1937.

22. Allowances for ward and family. - The Court may determine what sums shall be allowed for the expenses of the ward and of his family and dependents.

23. Custody, residence, education and marriage of ward or minor relatives. - The Court may make such orders and arrangements, as to it may seem fit, in respect of the custody, residence, education and marriage -

(a) of any ward whose person is for the time being under its superintendence.

(b) of any minor child, minor brother, or minor sister of such ward, who, in the opinion of the Court, is entitled to maintenance at the charge of the ward's estate.

(c) of the ward's next male heir being a minor and also so entitled to maintenance.

24. Appointment, etc., of managers and guardians. - (1) The Court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed:

Provided that it shall not appoint a guardian for any person who has become a ward in pursuance of an order under Sec.18.

(2) Any appointment made under this section shall terminate when the Court ceases to exercise superintendence over the person for whom a guardian, or over property for which a manager, has been appointed.

25. Collector to act if there is no manager or guardian. - If no manager of the property or guardian of the person of a ward is appointed by the Court, or the office is temporarily vacant, the District Collector specified in the notification under Sec.19, or any other Collector whom the Court may appoint in this behalf, shall be competent, under the control of the Court, to do anything that might be done by such manager or guardian.

26. Who may and may not be guardians. - (1) No person being the next legal heir of a ward, or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed guardian of such ward:

Provided that the mother of a ward, or any person appointed guardian by the will of a person authorized to make such appointment may be appointed guardian by the Court at its discretion.

(2) A female guardian shall be appointed for a female ward, and a male guardian for a male ward above seven years of age, unless, in any case, the Court, for special reasons, shall direct otherwise:

Provided that no guardian shall ordinarily be appointed for a female ward if she has an adult husband.

27. Duties of guardians. - A guardian appointed under Sec.24 shall be charged with the custody of the ward, and, subject to the control of the Court, shall make suitable provision for his maintenance and health, and, if he be a minor, for his education, and for such other matters as are required by the personal law to which the ward is subject, and shall -

(a) give such security (if any), as the Court thinks fit, for the due performance of his duty;

(b) submit such accounts as the Court may direct;

(c) pay the balances due from him thereon;

(d) continue liable to account to the Court after he has ceased to be guardian for his receipts and disbursements during the period of his guardianship;

(e) apply for the sanction of the Court to any act which may involve expense, not previously sanctioned by the Court;

(f) be paid such allowance out of the property of the ward, as the Court thinks fit.

28. Powers of manager. - Every manager appointed by the Court shall have power, subject to the control of the Court, to collect the rents of land placed under his charge, as well as all other money due to the ward, and to grant receipts therefor, and may under the orders of the Court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as he may be generally or specially authorized by the Court to do for the good management of the property.

29. Duties of Manager. - Every manager appointed by the Court shall manage the property placed under his charge diligently and faithfully and shall:

(a) give such security, if any, as the Court thinks fit, duly, to account for what he may receive in respect of the rents and profits of the property under his charge;

(b) keep such accounts in such form and submit them at such times as the Court may direct;

(c) deal with any moneys received by him in such manner as the Court may direct;

(d) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by the Court;

(e) be responsible for any loss occasioned to the property by his negligence or willful default;

(f) continue liable to account to the Court after he has ceased to be manager for his receipts and disbursements during the period of his managership;

(g) be paid such allowance out of the property of the ward as the Court thinks fit.

30. Employees of Court deemed to be public servants. - Every guardian, manager, or other servant of the Court, shall be deemed to be a "public servant", within the meaning of Secs.161,162,163,164 and 165 of the Indian Penal Code, and in the definition of legal remuneration, contained in the said Sec.161, the word, "Government" shall for the purposes of this section, be deemed to include the Court.

31. Manager and other servants to be deemed to be public accountants and amenable to Madras Regulation IX of 1882. - Every manager or other servant of the Court entrusted with the receipts, custody or control of moneys or securities for money on behalf of the Court or with the management of any property under its superintendence shall be deemed to be a Public Accountant within the meaning of the Public Accountants' Default Act, 1850, and shall be amenable to the provisions of the Madras Revenue Malversation Regulation, 1822, as if he were a [] servant of the Collector's public establishments.

32. Regulation of expenditure. - Unless the Court otherwise directs, all moneys received by, or on behalf of, the Court, on account of the property of any ward, shall be employed in meeting the charges included in Class I hereinafter specified before it is employed in meeting the charges in Classes II and III hereinafter specified, and in meeting the charges in Class II, before it is employed in meeting those in Class III.

Class I

Charges necessary for the maintenance, residence, education, marriage, and indispensable religious observances of the ward and his family.

Charges necessary for the management and supervision of the property of the ward.

Charges on account of Government revenue and all cesses and other public demands due in respect of such property, or any part of such property.

1. The word 'native' was omitted by the Adaptation (Amendment) Order of 1950.

Class II.

Charges on account of rent, cesses or demands due to any superior landholder in respect of any land held on behalf of the ward.

The liquidation of debts payable by the ward.

Expenses necessary to protect the interests of the ward in the Civil Court or otherwise.

The maintenance in efficient condition of the estates, buildings and other immovable property and the suitable upkeep of the furniture, equipage, livestock and other movable property belonging to the ward.

Class III.

The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances, and of such donations befitting the position of the ward's family, as the Court may authorize to be paid.

The prevention and relief of distress among the ward's tenantry.

The improvement of the land and property of the ward and the benefit of the ward and his property generally.

33. Surplus - how to be dealt with. - Any surplus which remains after providing, so far as the Court deems fit for the objects mentioned in Sec.32, shall be applied in the purchase of other landed property, or invested at interest on the security of -

(a) promissory notes, debentures, stock, and other securities of the ¹[Central Government];

²[(b) bonds, debentures, and annuities charged by the Parliament of the United Kingdom before the 15th day of August, 1947, on the revenues of India or of the Governor-General in Council or of any Province;]

(c) stock, or debentures of, or shares in, railways or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

(d) debentures, or other securities for money, issued by or on behalf of, any local authority under the authority of ³[any Central Act, any Provincial Act as defined in clause (46) of Sec.3 of the General Clauses Act, 1897, or ⁴(any State Act)];

(e) such other securities, stock, or shares guaranteed by the ⁵[Central Government] or the ⁶[State Government] as the Court shall deem fit; or

(f) first mortgages of immovable property situate in ⁷[India] provided that the property is not leasehold for a term of years and that the value of the property exceeds by one-third or if consisting of buildings, exceeds by one-half, the mortgage money.

1. These words were substituted for the words 'Government of India' by the Adaptation Order of 1937.

2. This clause was substituted by the Adaptation (Amendment) Order of 1950 for the original clause as amended by the Adaptation Order of 1937.

3. The portion within square brackets was substituted for the words 'any Act of a Legislature, established in British India' by the Adaptation (Amendment) Order of 1950.

4. These words were substituted for the words and letters 'any Act of the Legislature of a part A state or a Part C State' by Sec.4 of, and the Third Schedule to, the Madras Repealing and Amending Act, 1957 (Madras Act XXV of 1957).

5. These words were substituted for the words "Government of India" by the Adaptation Order of 1937.

6. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

7. The Words and letters 'a Part A State or a Part C State' were substituted for the words 'British India', by the Adaptation (Amendment) Order of 1950, and the word 'India' was substituted for these words by Sec.1 of, and the Third Schedule to, the Madras Repealing and Amending Act, 1957 (Madras Act XXV of 1957).

¹[34. **Disabilities of wards.** – (1)] A ward shall not be competent –

(a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract or to make any acknowledgement involving him in pecuniary liability personally or in respect of such property; but nothing in this clause or in Sec.23 shall be deemed to affect the capacity of a ward to enter into a contract of marriage; provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court may, in writing, declare to be reasonable;

(b) to grant valid receipts for the rents and profits arising or accruing from such property or debts or other moneys due to the estate;

(c) to adopt or to give a written or verbal permission to adopt, without the consent of the Court;

(d) to dispose of his property by will, without the consent of the Court:

Provided first, that the Court shall not withhold its consent under clause (c) or (d) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation:

Provided, secondly, that the Court may confirm a will or an adoption made, or a permission to adopt given, without its previous consent;

Provided thirdly, that the provisions of clause (c) and (d) shall not apply to any proprietor in regard to whose property a declaration has been made under Sec.18.

²[(2) No claim under Sec.68 of the Indian Contract Act, 1872, shall be enforceable against the property of a ward which is under the superintendence of the Court; but the Court may in its discretion, satisfy in whole or in part, any such claim.]

35. Powers of Court as to property under its superintendence. – The Court may mortgage or sell the whole or any part of any property under its superintendence and may give leases of farms of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such order and do such acts not inconsistent with the provisions of this or any other Act for the time-being in force, as it may judge, to be for the advantage of the ward or for the benefit of the property.

36. Establishments and distribution of charges. – The Court may order such establishments to be employed and charges to be incurred, as it shall consider requisite for the care and management of the persons and properties under its superintendence, and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed among the said properties in such proportions as it deems fit.

CHAPTER V

Ascertainment and settlement of debts.

37. Notice calling upon claimants to notify claims. – (1) On the publication of notification under Sec.19, the District Collector therein specified may, at any time with the

1. Section 34 was renumbered as Sub-sec.(1) of Sec.34 by Sec.2 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XXV of 1933).

2. This Sub-section was added by Section 2 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

previous sanction of the ¹[State Government] publish in the Gazette of the district or districts in which such property may be situate, notice in English and in the vernacular, calling upon all persons having pecuniary claims, whether immediately enforceable or not against the ward or his property to notify the same in writing to the Collector within six months from the date of such notifications.

(2) The notice shall also be published at such places and in such other manner as the Court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed.

(3) The ¹[State Government] may at any stage of the proceedings under Secs.37, 38 and 40, invest any person either by name or in virtue of his office with the powers of a Collector for any or all of the purposes of these sections.

Explanation. – A claim shall be deemed to be pecuniary for the purpose of this section and Secs.38 and 41 notwithstanding that a suit for its enforcement or a reference of such claim to arbitration is pending or that a decree or award has been passed establishing the same.

38. Claims to furnish full particulars and documents. – (1) Every such claimant shall within the period prescribed by Section 37, notify to the Collector in writing his claim with full particulars thereof:

Provided that any claim presented after the expiration of such period and within a further period of six months may be admitted if the claimant satisfies the Collector that he had sufficient cause for not notifying the claim at an earlier date.

(2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he bounds his claim, shall be produced before the Collector with the statement of claim or within such time after the preferring of the claim as may be allowed by the Collector in that behalf:

Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and certificate from the Court, which passed, or is executing the same declaring the amount recoverable thereunder, or a true copy of the award and a statement of the sum recoverable thereunder as the case may be; and if the claim is pending adjudication in any Court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration as the case may be.

(3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to claim other than the documents, if any, produced under Sub-section (2) as the Collector may consider necessary.

(4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompanied by a true copy thereof. The Collector shall mark the original document for the purposes of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

39. Pecuniary claim of the Government etc., not affected. – Nothing contained in Secs.37 and 38 shall apply to any pecuniary claim of ²[the Government] or any local authority, or to claims for maintenance or for wages or salaries due to servants.

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. The words 'the Crown' were substituted for the word "Government" by the Adaptation order of 1937 and the word 'Government' was substituted for 'Crown' by the Adaptation order of 1950.

40. Claims admitted and disallowed. – The Collector shall after making such inquiry as he may deem fit, decide which claims notified or admitted under Sec.38 are to be allowed in whole or in part, and which are to be disallowed, and, on his decision being confirmed by the Court, shall give written notice of the same to the claimants.

Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim whether such claim be allowed or disallowed by the Court in whole or in part.

41. Claims not notified cease to carry interest, etc. – Every pecuniary claim against the ward or his property, which has not been duly notified to, or admitted by, the Collector under Sec.38 shall notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by Sec.37 and shall not be paid until after the discharge or satisfaction of the claims notified or admitted under Sec.38.

42. Inadmissibility in evidence of documents not produced. – No document in the possession or under the control of the claimant, which should have been, but has not been, produced in accordance with the requirements of Sec.38 shall be admissible in evidence against the ward or his representative in any suit brought by or against the claimant, or any person claiming under him unless it be proved to the satisfaction of the civil Court that it was not within his power to produce such document before the Collector.

43. When mortgagee in possession may be dispossessed. – (1) When any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the '[State Government] may, on being satisfied that it is expedient in the public interest that the estate should be preserved and that such incumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the Court to take possession thereof; the Court shall, thereupon by an order in writing, require such incumbrancer to deliver up possession of the same to the manager at the end of the then current revenue year.

(2) If such incumbrancer refuses or neglects to obey such order, the Collector may, without resorting to a civil Court, enter upon the property, and summarily evict, therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(3) The dispossession of the incumbrancer under Sub-sections (1) and (2) shall not deprive him of any summary powers which he would have had under the Madras Rent Recovery Act, 186² for the recovery of arrears of rent due to him at the date of his dispossession.

(4) If in the instrument of mortgage under which the incumbrancer is in possession of the property, no rate of interest is specified, the Collector shall, in cases where the mortgage debt had been notified to or admitted by him, offer to the incumbrancer the rate of interest which appears to him to be reasonable; and pass an order fixing the rate accordingly. Copy of the order shall be served upon the incumbrancer in the manner prescribed by the Code of Civil Procedure³ for service of summons upon a defendant. If the incumbrancer be dissatisfied with the rate of interest so fixed, he may, within three months from the date of service upon him of such order, institute a suit against the ward in a District Court within whose jurisdiction the property mortgaged or any portion thereof is situate, and the said Court shall, if the mortgage debt has been notified or admitted as aforesaid, pass a declaratory decree fixing such rate of interest as to it may seem reas-

1. The words 'Provincial Government' was substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. Repealed by Madras Act I of 1908.

3. See now the Code of Civil Procedure, 1908 (Central Act V of 1908).

onable. If no such suit be instituted within the said period, the incumbrancer shall be deemed to have agreed to the rate fixed by the Collector.

(5) If an incumbrancer is dispossessed under this section, the money due to him under the instrument of mortgage at the date of such dispossession together with subsequent interest on the unliquidated principal of the mortgage debt at the rate stipulated in the said instrument, and in the absence of such stipulation at the rate determined as hereinbefore provided, shall, subject to the provisions of Sec.41, and subject to the charges specified in clauses I and II in Sec.32, excepting the liquidation of debts payable by the ward, and the provisions with reference to the upkeep of the furniture, equipage, livestock, and other movable property belonging to the ward, be recoverable together with any money which he may be legally entitled to add to the principal money, on the security of the property mortgaged and of the rents and profits arising or accruing therefrom subsequent to the date of such dispossession, in the same manner as if he were a simple mortgagee under the said instrument of such property and of such rents and profits.

(6) The Collector shall, as soon as conveniently may be, after the expiration of the revenue year commencing with the date of such dispossession and of every successive revenue year declare, subject to the approval of the Court, the gross annual rents and profits realized from such property, the several heads of expenditure and the balance and such declaration shall be conclusive evidence of the statements therein contained. A copy of such declaration shall be furnished to the dispossessed incumbrancer free of charge.

44. Provisions regarding lease for insufficient consideration. – (1) When any property of a ward is in the possession of any person claiming to hold under a lease granted by the ward and dated within the three years immediately preceding the commencement of the superintendence or of any person claiming under such lessee, the Collector may inquire into the sufficiency of the consideration for which the lease was granted; and if such consideration appears to him inadequate, he may, with the previous sanction of the Court, give notice in writing that the lease shall determine at the end of the then current revenue year unless the lessee or any one claiming under him pays or agrees to pay such additional consideration as may be mentioned in such notice within a date therein fixed. If within such date such person does not pay or enter into an agreement to pay the additional consideration demanded, or such other consideration as the Collector may be willing to accept, the lease shall determine at the end of the current revenue year:

Provided that such person may, if dissatisfied with the said notice of the Collector, institute a suit against the ward within three months from the date of service of such notice in a District Court within whose jurisdiction the property comprised in the lease or any portion thereof is situate for determining whether the consideration for the lease was adequate, and if not, whether the additional consideration demanded by the Collector or what other amount is reasonable.

(2) If the said District Court be satisfied that the lease was granted for adequate consideration and it is not shown to be otherwise invalid, it shall pass a decree establishing the validity of the lease.

(3) If the District Court holds the consideration for the lease to be inadequate, it shall determine the amount of additional consideration to be paid by the lessee.

(4) If no such suit be instituted or if on the institution of such suit the lessee does not within one month from the date of the decree therein pay or enter into an agreement to pay the additional consideration, determined by the District Court, the Collector may without resorting to a civil Court enter upon the property and summarily evict therefrom such person and any other person obstructing or resisting on his behalf.

45. Execution of decree to be transferred to Collector in certain cases. — (1) In the case of any specified ward of the Court, the ¹[State Government] may ²[* * * *] declare by notification in the Official Gazette that execution of decrees passed by civil Court, which are capable of execution by sale of any immovable property of such ward, or which in pursuance of a contract specifically affecting any such immovable property order the sale of the same, whether such decrees be passed prior to such notification or subsequent thereto, shall be transferred to the Collector of the district in which such property or any portion thereof is situate and rescind such notification:

Provided that when a portion only of a decree passed by a civil Court is of the description aforesaid, such portion alone shall be transmitted to the Collector for execution.

(2) The ¹[State Government] may also notwithstanding anything contained in the Code of Civil Procedure³ prescribe rules for the transmission of the decree from the civil Court to the Collector, and for regulating the procedure of the Collector in executing the same, and for retransmitting the decree from the Collector to the civil Court.

(3) Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector, all or any of the powers which a civil Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the civil Court under sections 294 and 312 of the Code of Civil Procedure³ and may provide for orders passed by the Collector or any gazetted subordinate of the Collector or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior revenue authorities as nearly as may be as the orders passed by the civil Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional civil Courts under the Code of Civil Procedure³ or other law for the time being in force if the decree had not been transferred to the Collector.

(4) A power conferred by the rules upon the Collector, or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the civil Court which passed the transferred decree or by any civil Court in exercise of any appellate or revisional jurisdiction which it has with respect to decree or orders of the aforesaid civil Court.

(5) In executing a decree transferred to the Collector under this section, the Collector shall be deemed to be acting judicially within the meaning of the Judicial Officer's Protection Act, 1850.

46. Collector to whom execution of decree has been transferred to cease to discharge the functions of a Collector under the Act. — (1) When the Collector, to whom the

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. The words 'with the previous sanction of the Governor-General-in-Council' were omitted by the Devolution Act, 1920 (Central Act XXXVIII of 1920), First Schedule—Part III.

3. See now Central Act V of 1908.

execution of any decree has been transferred under Sec.45, is also the Collector who has to discharge the other functions of a Collector under this Act in respect of the ward against whom such decree has to be executed, the ¹[State Government] shall appoint some other person by name or in virtue of his office to exercise the functions of a Collector under this Act in respect of such ward other than the execution of the decrees transferred to him.

(2) The Board of Revenue may authorize the person so appointed to exercise all or any of the powers conferred on a revenue officer in charge of a division by Sub-sec.(2) of Sec.16 of the Madras Proprietary Estates' Village Service Act, 1894.

47. Certain provisions of Civil Procedure Code to be applicable to execution of decrees transferred to Collector. – The provisions of Secs.321, 322, 322-A, 322-B, 322-C, 322-D, 323, 324, 324-A, 325, 325-A, 325-C of the Code of Civil Procedure,² shall subject to the provisions of this Act and to such rules as may be prescribed by the ¹[State Government] under Sec.45, be applicable as far as may be to the execution of decrees transferred under Sec.45.

CHAPTER VI SUITS

48. Exercises of discretion not to be questioned in civil Court. – No declaration made by the ¹[State Government] under Sec.15 or 18 and no act done in the exercise of any discretionary power conferred by this Act shall be questioned in any civil Court.

49. Suit not to be instituted until after notice to Collector. – (1) No suit relating to the person or property of any ward shall be instituted in any civil Court until the expiration of two months after notice in writing has been delivered to or left at the office of the District Collector specified in the notification under Sec.19 or the Collector appointed under Sec.46 as the case may be.

(2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief, which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under Sec.19.

²**[50. Suits or proceedings by or against ward.** – In all suits or proceedings in any civil or revenue Court the ward shall sue and be used in his own name and the manager of his property appointed under Section 24 or, if there is no such manager, the officer competent to act as manager under Section 25 shall represent him, as next friend or guardian *ad litem* as the case may be.]

51. Costs against Collector or manager - how paid. – If in any such suit or proceedings any civil or revenue Court shall decree any costs against the³ * * * * manager⁴ [or other officer competent to act as manager under Section 25], the Court of Ward shall cause costs to be paid out of any property of the ward, which, for the time being, may be in its hands.

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. Substituted for the original Sec.50 by Madras Act I of 1911, Sec.2.

3. The words 'Collector or' were omitted by Madras Act I of 1911, Sec.3.

4. Inserted, *ibid*.

52. Suits must be authorized by Court. - No suit shall be brought on behalf of any ward by the ¹ * * * * manager ²[or other officer competent to act as manager under Section 25] unless authorized by some particular or general order of the Court:

Provided that a manager ²[or other officer as aforesaid] ³ . . . may file a plaint in order to prevent a suit from being barred by the law of limitation, but such suit shall not be further proceeded with, until the consent of the Court has been obtained.

53. Adjudication of civil disputes between two or more wards. - (1) When any question arises as between two or more wards of such a nature that an adjudication upon it by a civil Court is expedient, it shall be lawful for the Court of wards, acting through the Collector of the district in which a case might have been stated for the opinion of the civil Court with regard to such matter under Sec.27 of the Code of civil Procedure⁴, to file in the Civil Court having jurisdiction, a statement containing the point or points for determination.

(2) When such statement has been filed, the civil Court shall appoint a guardian *ad litem* for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(3) The civil Court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the Code of Civil Procedure⁵, for the hearing and disposal of cases stated for opinion under that Chapter.

CHAPTER VII.

Release of persons and property from superintendence

54. Release from superintendence. - The Court may, with the previous sanction of the ⁶[State Government] in all cases where superintendence has been assumed in pursuance of orders under Sec.15, at any time release from its superintendence the person or property of a ward or both and shall save as provided in Sec.57 release from superintendence -

(a) the person and property of a ward disqualified under clause (a) of Sec.9 as soon as he ceases to be a minor;

(b) the person and property of a ward disqualified under clause (c) of Sec.9 as soon as it is found by a competent civil Court that the disability has ceased;

(c) the person and property of a proprietor declared to be disqualified under clause (b) or (d) of Sec.9 as soon as the ⁶[State Government] revokes its declaration that such proprietor is disqualified;

(d) the property of an undivided Hindu family, and the person of every coparcener therein who is not possessed of separate estate, as soon as any coparcener ceases to be disqualified under Sec.9.

55. Release of estates taken under management under Section 18 when debts cannot be liquidated within reasonable time. -(1) The Court may, with the previous sanction of the ⁶[State Government], at any time within two years from the date of the notification published under Sec.19, release from its superintendence, on a day to be notified, the property of a person

1. The words 'Collector or' were omitted by Madras Act I of 1911, Sec.3.

2. Inserted, *ibid*, Sec.4.

3. The words 'in the name of the Collector or in his own name as the case may be' were repealed, *ibid*.

4. See now Central Act V of 1908.

5. See now Central Act V of 1908.

6. The words 'Provincial Government' was substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

who has been made a ward of the Court in pursuance of an order under Sec.18 without liquidating any of his debts and liabilities or after liquidating some of the debts and liabilities, when the Court is satisfied that it is impractical to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated and in either case the legal incapacity of such ward shall cease on the date so notified.

(2) Whenever an incumbrancer is dispossessed under Sec.43, and his debt remains unliquidated at the time the Court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the incumbrancer in possession.

(3) Whenever the property of a person is released under Sub-sec.(1) from the superintendence of the Court, the provisions of Secs. 41 and 42 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his property is so released.

(4) In computing the period of limitation applicable to a suit, brought or application made against such person or his legal representative after the Court has released his property under Sub-sec.(1), the time during which the superintendence of the Court continued shall be excluded.

56. When estate taken under management under Section 18 may be made over to proprietor. - The Court may, with the previous sanction of the, ¹[State Government], replace any proprietor made a ward of the Court in pursuance of an order under Sec.18, in the management of his estate on a day to be notified if the debts and liabilities binding on his estate have been discharged, and the Court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs and his legal incapacity shall cease on such date.

57. Option to retain superintendence in certain cases. - When a ward dies or ceases to be disqualified before the debts and liabilities binding on his estate have been discharged, the Court may, with the previous sanction of the ¹[State Government], retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the Court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the Court shall not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid:

Provided that, after the death of the ward, the Court shall not retain charge on account of any debt or liability, which has been declared by a civil Court not to be binding on the representatives of the deceased ward.

58. Disabilities of proprietor in such cases. - If the Court retains the superintendence under the provisions of the last preceding section, the person who has succeeded to the property, or the person who has ceased to be disqualified shall insofar as the property in question is concerned be deemed to be a ward of the Court for the purposes of clauses (a) and (b) of ²[Sub-sec.(1) and Sub-sec.(2) of Sec.34].

59. Appointment of guardian before release. - (1)When the Court decides to release from its superintendence the person and property of a minor it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor.

1. The words 'Provincial Government' was substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.

2. The portion within square brackets was substituted for the word and figures 'Section 34' by 'Section 3' of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section, the Court shall be guided by the provisions of Sec.17 of the Guardian and Wards Act, 1890.

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardian and Wards Act, 1890.

60. Recovery of expenses after release. - Any expense incurred by the Court on account of any property under its charge, and not defrayed from such property during the Court's superintendence may, after the release of such property, be recovered as if it were an arrear of revenue from any person into whose possession such property or any part thereof may have passed:

Provided that the sum so recovered from any such person shall not be greater than the value of any such property, which so passed into the possession of such person.

61. Procedure when succession to ward's property is disputed. - Whenever, on the death of any ward, the succession to his property or any part thereof is disputed, the Court may either direct that such property, or part thereof, be made over to any person claiming the property, or may retain the superintendence of the property until a claimant has established his title to the same in a competent civil Court, or institute a suit of interplead against all the claimants.

62. Notification of release from superintendence. - Whenever the Court releases any person or property from its superintendence, the fact of such release shall be notified in the ¹[Official Gazette] and also in the Gazette of the district in which such property or any part thereof is situate.

CHAPTER VIII.

Miscellaneous.

63. Powers of Court in regard to religious endowments of which ward is hereditary trustee or manager. - If a ward is the hereditary trustee or manager of a temple, mosque or other religious establishment or endowment, the Court, notwithstanding anything contained in Sec.22 of the Religious Endowments Act, 1863, may make such arrangements as it thinks fit for the discharge, during the wardship of ward's duties as trustee or manager, provided that for the direct and personal management of the religious affairs of any such institution, establishment or that the Court shall appoint suitable persons other than ²[servants of the Government] and that the Court shall as far as possible, restrict its superintendence to the preservation of the property belonging to the institution, establishment, or endowment.

64. Powers of persons holding inquiries. - In holding any inquiry under this Act the Collector or other person authorized to hold such inquiry shall have all the powers conferred on revenue officers by the Madras Revenue Summonses Act, 1869.

65. Property under charge of Court not liable to sale for arrears. - No immovable property under the superintendence of the Court shall be liable to sale on account of arrears of land revenue, accruing while such estate is under the superintendence of the Court:

Provided that all such arrears of revenue shall be the first charge upon the sale proceeds of any such property which may be sold for any other cause than for arrears of revenue.

66. Power to make rules. - The Court may, with the previous sanction of the ¹[State Government], make rules consistent with this Act-

1. The words were substituted for the words 'Fort St. George Gazette' by the Adaptation Order of 1937.

2. The words 'servants of the Crown' were substituted for the words 'officers of Government' by the Adaptation Order of 1937 and the word 'Government' was substituted for 'Crown' by the Adaptation Order of 1950.

(a) regulating the management of property under the superintendence of the Court; and
 (b) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

²[66-A. **Application of Act to estates of Rulers of Indian States.** - The powers and functions conferred on the State Government by or under this Act shall, in relation to the estate of Rulers of Indian States, be powers and functions of the Central Government].

CHAPTER IX

Penalties

67. Abetting unsanctioned marriage of wards, etc. - Whoever, without the previous consent of the Court, abets the marriage of any of the persons specified in clauses (a), (b), and (c) of Sec.23 shall be liable, on conviction before a Court of Session, to a fine not exceeding Rs.2,000 or to imprisonment for a term not exceeding six months or to both.

THE LIMITATION ACT (XXXVI OF 1963)

<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
107. For possession of a hereditary office. <i>Explanation.</i> - A hereditary office is possessed when the properties thereof are usually received, or (if there are no properties) when the duties thereof are usually performed.	Twelve years	When the defendant takes possession of the office adversely to the plaintiff.

1. The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the words 'State' substituted for 'Provincial' by the Adaptation Order of 1950.

2. This section was inserted by the Adaptation (Amendment) order of 1950.

**TAMIL DEVELOPMENT-CULTURE AND RELIGIOUS ENDOWMENTS
DEPARTMENT.**[THE TAMIL NADU ANCIENT AND HISTORICAL MONUMENTS AND
ARCHAEOLOGICAL SITES AND REMAINS RULES, 1971.][Published in part III Sec.1 (a) page 71 of Tamil Nadu Government Gazette
dated 27th April, 2005.][G.O.Ms.No.29, Tamil Development-Culture and Religious Endowments (MA2),
11th February 2005.]

S.R.O.No.A-24/2005— Whereas by the notification of the Government of Tamil Nadu in the department of Tamil Development-Culture and Religious Endowment No.S.R.O.A-38/2003, published at pages 89-92 of Part III-Sec.1(a) of the *Tamil Nadu Government Gazette*, dated the 2nd July 2003, the Government of Tamil Nadu gave one month notice of its intention to declare areas up to 100 metres from the protected limits, on all sides and further beyond it up to 200 metres near or adjoining the protected monuments specified in the Annexure to the said notification, to be prohibited and regulated areas, respectively for purposes of both mining operation and construction;

And, Whereas, no objection or suggestion was received from any person before the date of expiry;

Now, therefore, in exercise of the powers conferred by Rule 33 of the Tamil Nadu Ancient and Historical Monuments and Archaeological Sites and Remains Rules, 1971, the Governor of Tamil Nadu hereby declares that the areas up to 100 metres from the protected limits on all sides and further beyond it up to 200 metres near or adjoining the protected monuments specified in the Annexure, to be prohibited and regulated areas, respectively, for purposes of both mining operation-and construction. This shall be in addition to and not in any way prejudice to the similar declaration already made in respect of the monuments specified in the Annexure.

ANNEXURE

Serial No.	Name of the Monuments.	Village.	Taluk.
(1)	(2)	(3)	(4)
KANCHIPURAM DISTRICT:			
1	Pillaichathiram	Selvazhimangalam	Tiruperumpudur
2	Sivan Koil	Sivankoodal	Tiruperumpudur
3	Mahadevan Koil	Edayarpakkan	Tiruperumpudur
4	Sivan Koil	Sivapuram	Tiruperumpudur
5	Alammbarai Fort	Alambarai	Maduranthakam
6	Karungauzhil Kotai	Karunkuzhi	Maduranthakam
7	Vittal Temple	Vittalapuram	Chengalpattu
8	Vazhipokkar Mandapam	Thangi	Kanchipuram
9	Tirulokanatha Jeenaswamy Temple	Thiruparudhikunram	Kanchipuram
10	Chokkeeswarar Temple	Kanchipuram	Kanchipuram
11	Sivan Koil	Kooram	Kanchipuram
12	Chandraprabha Temple	Tiruparuthikunram	Kanchipuram

Serial No.	Name of the Monuments.	Village.	Taluk.
(1)	(2)	(3)	(4)
THIRUVALLUR DISTRICT:			
13	Visaleeswarar Temple	Vilakanampoondi	Thiruttani
VELLORE DISTRICT:			
14	Aramamalai Caves	Malayampattu	Gudiyattam
15	Seven Mothers Sculptures	Perunkanchi	Walajapettai
16	Tombs of Ceylon Kings	Vellore	Vellore
17	Valleeswarar Temple	Thakkolam	Arakkonam
18	Kanja Sahib Tomb	Sholingar	Walajah
TIRUVANNAMALAI DISTRICT:			
19	Vandavasi Fort	Vandavasi	Vandavasi
20	Thadagapureeswarar Koil	Madam	Vandavasi
21	Chinnyankulam	Chinnyampettai	Chengam
22	Poondi Arugar Temple	Erumpedu	Arani
23	Gangaikondacholeeswara Temple	Koolampandal	Cheyyar
VILLUPURAM DISTRICT:			
24	Sivan Koil	Kandamangalam	Villupuram
25	Rock Paintings	Chettavarai	Gingee
26	Mukthialeswarar Koil and Seetha Cave	Perumukkal	Tindivanam
27	Tirumoolanathar Temple	Perangiyur	Ulundurpet
28	Malaikoottai Walls	Thyagadurgam	Kallakurichi
29	Kabhar Rocks	Pennaru	Tirukkoilur
30	Rock Paintings	Kilvalai	Tirukkoilur
31	Rock Paintings	Alampadi	Tirukkoilur
32	Sivan Koil	Ulagapuram	Vanur
33	Vishnu Koil	Ulagapuram	Vanur
CUDDALORE DISTRICT:			
34	Rudrapathi Temple	Kilakkadampur	Chidambaram
35	Kadambavaneswaran Koil	Erumbur	Chidambaram
SALEM DISTRICT:			
36	Rockwells and Ancient Tamil Inscription	Periya Erippali	Omalur
COIMBATORE DISTRICT:			
37	Ancient Paintings	Vettaikkaranmalai	Narasimanpuram
DHARMAPURI DISTRICT:			
38	Athiyaman Peruvazhikkal	Pakkirimedu	Dharmapuri
39	Ramasamy-Krishnasamy Koil	Mallapadi	Krishnagiri
40	Jegadevi Fort	Jegadevipalayam	Krishnagiri
TIRUCHIRAPPALLI DISTRICT:			
41	Swasthika Well	Thiruvellarai	Lalgudi
42	Sivan Koil	Alambakkam	Lalgudi
43	Sivan Koil	Alagiamanavalam	Lalgudi

Serial No.	Name of the Monuments.	Village.	Taluk.
(1)	(2)	(3)	(4)
TIRUCHIRAPPALLI DISTRICT-contd.			
44	Pachi Amaleeswaram Sivan Koil	Alagiamanavalam	Lalgudi
45	Agastheeswarar Koil	Perungudi	Tiruchirappalli
46	Sivan Koil	Pazhur	Tiruchirappalli
PERAMBALUR DISTRICT:			
47	Erattaikoil	Kilaiyur	Ariyalur
48	Kalinga Sculptures	Chengamedu	Udaiyarpalayam
49	Mallgalmedu	Ulkottai	Udaiyarpalayam
KARUR DISTRICT:			
50	Inscription of Rock Bed	Velayuthampalayam	Karur
51	Amaravathy river Bed	Thanthoni	Karur
NAGAPATTINAM DISTRICT:			
52	Dutch Fort	Tranquebar	Mayiladuthurai
53	Dutch Tomba	Nagapattinam	Nagapattinam
54	Sadayar Koil	Tiruchinammoondi	Thanjavur
55	Thanjavur Palace	Thanjavur	Thanjavur
56	Nerkalanjiyam	Tiruppalaithurai	Papanasam
57	Manora	Sarabendrarakapattinam	Pattukkottai
MADURAI DISTRICT:			
58	Tirumalai Naicker Palace	Madurai	Madurai
59	Paththu Thugal	Madurai	Madurai
60	Theerthangarar Sculptures	Madurai	Madurai
61	Brahmi Kalvettugal	Anaimalai	Madurai
62	Ladan Koil	Anaimalai	Madurai
63	Kovalanpottal	Madakulam	Madurai
64	Kalvettu Padukkaigal Murugan koil	Varichur	Madurai
65	Asthagiriswarar koil	Varichur	Madurai
66	Udayagiriswarar Koil	Varichumalai	Madurai
67	Brahmi Kalvettu	Kongarapullankulam	Tirumangalam
68	Sivan Koil	Arittappatti	Melur
69	Sivan Koil	Ayyapati	Melur
70	Thirumalai Naicker Mandapam	Valayappatti	Melur
71	Ovamali Kalvettu	Meenakshipuram	Melur
72	Tiruvadavur Kalvettu	Tiruvadavur	Melur
73	Karungalakkudi Kalvettu	Karunkkalkudi	Melur
DINDIGUL DISTRICT:			
74	Pandiyan Kalvettu Padukkai	Ramanad	Vedachandur
75	Kugaikoil-Chinna Narmali sculptures	Dhathanyakkanpatti	Palani
RAMNAD DISTRICT:			
76	Ramalinga Vilasam	Surankottai	Ramnad
77	Kattabomman Kottai	Kamudhi	Mudukulathur

Serial No. (1)	Name of the Monuments. (2)	Village. (3)	Taluk. (4)
SIVAGANGAI DISTRICT:			
78	Marudupandiyar Fort	Atanmanal Siruvayal	Karaikudi
TUTICORIN DISTRICT:			
79	Kattabomman Fort	Panchalankurichi	Ottapidaram
80	British tombs	Panchalankurichi	Ottapidaram
81	British tombs	Ottapidaram	Ottapidaram
82	Vettuvankoil.	Kazhugumalai	Kovilpatti
TIRUNELVELI DISTRICT:			
83	Poola Udaiyar Kalvettu	Seevalapperi	Palayamkottai
84	Rajakkalmangalam (Iranyankudiyiruppu)	Rajakkalmangalam	Nanguneri
85	Tiruneelakandam	Panaji	Ambasamudram
KANYAKUMARI DISTRICT:			
86	Udayagiri post and Capt. Dillenoy tomb	Padmanabhapuram	Kalkulam
CHENNAI DISTRICT:			
87	Memorial Pillar	Arasu Pannai	Guindy- Mambalam

**PROCEEDINGS OF THE COMMISSIONER, H.R. & C.E. ADMN. DEPARTMENT,
CHENNAI-600 034.**

Present : Thiru G. RAMAKRISHNAN, I.A.S.,
Commissioner.

Pro. R.C.No. 9641/2004-1 D4, dated 27-2-2004.

Sub : DELEGATION OF POWERS – Under Section 13 of the H.R. & C.E. Act 22 of 1959 – Delegate to subordinate officers at Head Office and Zonal and District Officers – Orders issued.

Commissioner's U.O. Note No.NIL/2004 B1, dated 12.2.2004.

....

(1) In exercise of the powers contemplated under Sec.13 (2) of the Tamil Nadu H.R.& C.E. Act 22 of 1959, the Commissioner delegates the following powers and duties conferred on him by this Act to the following subordinate officers at Head Office and the Divisional Officers at district level subject to the over all administrative control of the Commissioner.

(2) ADDITIONAL COMMISSIONER:

(i) Section 29 of the Act: Approval of Register of properties of Religious Institutions (SENIOR GRADE) after verification and attestation by the special officer (Temple Lands) in respect of immovable properties.

(ii) Section 30 of the Act: Annual verification of Registers of Religious Institutions (SENIOR GRADE) after verification and attestation by the special officer (Temple Lands) in respect of immovable properties.

(iii) Section 31 of the Act: Approval of registers of religious institutions (SENIOR GRADE) once in TEN years after verification and attestation by Special Officer (Temple Lands) in respect of immovable properties.

(iv) Section 33 (1) (2) (3) of the Act: Power to inspect all movable and immovable property belonging to and all records, correspondence, plans, accounts and other documents relating to all Religious institutions.

(v) Section 58 of the Act: Power to fix standard scale of expenditure and approval of *Dhittam* Registers in respect of religious institutions published under Sec.46 (ii) of the Act.

(vi) Section 89 (2) of the Act: Power to take action under this Section on the contents of the audit reports submitted by the Auditors.

(vii) Section 93 of the Act: Recovery of costs and expenses incurred by the Government, the Commissioner, a Joint Commissioner, a Deputy Commissioner or an Assistant Commissioner, on all legal proceedings.

(3) JOINT COMMISSIONER (HEAD QUARTERS)

(i) Section 29 of the Act: Approval of Register of properties of religious institutions (other than SENIOR GRADE) after verification and attestation by the Special Officer (Temple Lands) in respect of immovable properties.

(ii) Section 30 of the Act: Annual verification of Registers of Religious Institutions (other than SENIOR GRADE) after verification and attestation by the Special Officer (Temple Lands) in respect of immovable properties.

(iii) Section 31 of the Act: Approval of Registers of Religious Institutions (other than SENIOR GRADE) once in TEN years after verification and attestation by the Special Officer (Temple Lands) in respect of immovable properties.

(4) JOINT COMMISSIONERS AND JOINT COMMISSIONER/EXECUTIVE OFFICERS:

(i) Section 35 of the Act: The zonal Joint Commissioners shall have the power to authorise the trustees of religious institutions falling within their jurisdiction to incur expenditure for securing Health, etc., of pilgrims and worshippers and for Training of Archakas, etc., in respect of religious institutions falling under Sec.49 (1) and religious institutions published under Sec.46 (1) of the Act.

(ii) Section 58 of the Act: Power delegated to zonal Joint Commissioner to fix standard scale of expenditure and approval of *Dhittam* Registers in respect of Religious Institutions published under Sec.46 (1) of the Act.

(iii) Section 86 of the Act: Power delegated to zonal Joint Commissioners under this Section in respect of Religious Institutions published under Sec.46 (1) of the Act.

(iv) Section 90 of the Act: Power of the Commissioner under this Section delegated to zonal Joint Commissioners to take action in respect of listed religious institutions under their jurisdiction other than Senior Grade Institutions, on the Audit Reports and replies on rectification of defects disclosed in the Audit Reports and to take surcharge proceedings against Trustees, etc., and to pass final orders wherever necessary.

(v) Purchasing Power:

(i) The zonal Joint Commissioners are authorised to make purchases upto Rs.10,000 (Rupees Ten thousand only);

(ii) The Joint Commissioner/Executive Officers are authorised to make purchases upto Rs.10,000 (Rupees Ten thousand only);

(iii) The Advocate fees other than engaging Senior Advocates may be sanctioned by the Joint Commissioners and Joint Commissioner/Executive Officers according to the limit as already provided.

(iv) The report for Advocate fees in High Court and Supreme Court for engaging Senior Counsel shall be submitted to the Commissioner for sanction.

(v) The zonal Joint Commissioners shall have power to countersign the T.A. Bills and approve the tour programmes of Assistant Commissioner and Assistant Commissioner/Executive Officers under their jurisdiction.

(vi) The Deputy Commissioner/Executive Officer shall have power to make purchases upto Rs.5000 (Rupees Five thousand only).

(vii) The Assistant Commissioner/Executive Officers shall have power to make purchases upto Rs.2000 (Rupees two thousand only).

(5) ASSISTANT COMMISSIONERS:

(i) Section 58 of the Act: Power delegated to zonal Assistant Commissioners to fix standard scale of expenditure and approval of *Dhittam* Registers in respect of Religious institutions falling under Sec.49 (1) (non-listed);

(ii) Section 86 of the Act: Power delegated to Assistant Commissioners under this Section in respect of Religious institutions falling under Sec.49 (1) of the Act (non-listed);

(iii) Section 90 of the Act: Power of the Commissioner under this Section delegated to Assistant Commissioners to take action in respect of non-listed institutions falling under Sec.49(1) of the Act, on the Audit Reports, and replies on rectification of defects disclosed in the Audit Report and to take surcharge proceedings against Trustees etc., and to pass final orders, wherever necessary.

(iv) The Assistant Commissioners are authorised to make purchases of articles upto a maximum amount of Rs.2000 (Rupees Two thousand only).

(6) All the Joint Commissioners and Assistant Commissioners are directed that the Hundial openings should be regulated according to the income of the institutions and the periodicity of opening shall be fixed by them as per the rules framed under Sec.116 (2) (xxvii) of the Act.

(7) This Order shall come into force immediately.

Sd. G. RAMAKRISHNAN
Commissioner.

**PROCEEDINGS OF THE COMMISSIONER, H.R. & C.E. ADMN. DEPARTMENT,
CHENNAI - 600 034.**

Present : Thiru G. RAMAKRISHNAN, I.A.S.,
Commissioner.

Pro. R.C.No. 9641/2004-2 D4, dated 27-2-2004.

Sub: Delegation of Powers – Officer on Special Duty and Special Officer for Temple Lands at Head-Office – Orders issued.

Ref: 1. G.O.Ms.No.837, Revenue, dated 18.3.1970.

2. G.O.Ms.No.369, C.T & R.E., dated 31.3.1983.

3. G.O.Rt.No.1488, Public (Special-A) Department, dated :20.4.2002.

With a view to improve efficiency and minimize delay in disposal of matters, the Commissioner delegates the following powers; duties and responsibilities to the officers mentioned in paras. 1 and 2 below subject to the overall administrative control of the Commissioner, with immediate effect.

(1) OFFICER ON SPECIAL DUTY:

(i) Approval and recording of all auctions and miscellaneous auction of usufructuary rights, periodical leases and leases of sundry rights etc., of all temples, if the realization is above 10% of the previous fasli year. However, wherever the amount exceeds Rupees five lakhs, the proposals shall be approved by the Commissioner.

(ii) All cases of exercising veto power should be decided by the Commissioner as per Rule 13 framed under Sec.116 (2) (xiii) of the Act.

(2) SPECIAL OFFICER (TEMPLE LANDS):

(i) Registers prepared under Sections 20, 30, 31: The Special Officer (Temple Lands) shall verify and attest the Registers of properties prepared and received in this office for approval, under Secs.29, 30, 31 in respect of immovable properties of all religious institutions.

Sd. G. RAMAKRISHNAN,
COMMISSIONER.

PROCEEDINGS OF THE COMMISSIONER, H.R. AND C.E. ADMN. DEPARTMENT
CHENNAI-34

Present : Thiru G. Ramakrishnan, I.A.S.,
Commissioner.

Pro.RC.No.9641/2004-4 D4, dated: 10.9.2004

Sub: Delegation of Powers – Under Section 13 (2) of HR & CE Act 22 of 1959 – Sections 29, 30, 31 - Delegate to Joint Commissioners of the Division – Orders issued.

Ref: 1. Commissioner's Pro.Rc.No.9641/2004-1/D4, dated 27.2.2004.
2. Commissioner's Pro.Rc.No.9641/2004-2/D4, dated 27.2.2004.

....

1. In respect of approval of Registers of properties prepared under Sec.29, 30, and 31 of the Act, powers were delegated to Additional Commissioner, Joint Commissioner (HQRS) and special officer for Temple Lands in the references cited above. The paras. 2, 3 in proceeding first cited and para (2) in the reference second cited in respect of Special Officer (Temple Lands) are hereby revoked.

2. With a view to improve efficiency and minimize delay in disposal of matters, and in exercise of the powers contemplated under Sec.13 (2) of the Tamil Nadu HR&CE Act 22 of 1959, the Commissioner, delegates his powers conferred on him under Secs.29, 30, 31 of the Act to the Regional Joint Commissioners as follows subject to the over all administrative control by the Commissioner.

3. The Joint Commissioners may, after receiving the registers prepared by the executive authorities of the religious institutions in their respective jurisdiction under Secs.29, 30, and 31 of the Act, with the recommendations of the Assistant Commissioners for approval and after making such inquiry as the Joint Commissioners may consider necessary, with reference to land particulars S.Nos, extent of lands and the certificates issued by the authorities, Patta Books, Title Deeds, etc., approve the Registers.

4. One copy of the register as approved by the Joint Commissioner shall be furnished to the executive authority of the institution, and one copy to the Assistant Commissioner concerned.

5. A monthly periodical report should be submitted on or before 10th of every month to Commissioner in the form appended.

6. This order comes into force with immediate effect.

7. Receipt of this order should be acknowledged by next post.

Sd/- G. RAMAKRISHNAN.
COMMISSIONER

Office of the Commissioner.
H.R. & C. E. Admn. Department,
Chennai-600 034.

R.C.No.70111/2001-D4 Dated: 2.11.2001

Sub: AMENDMENT TO RULES – Rules framed under Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) – Management and preservation of properties of religious Institutions – Rules framed under Section 116 (2) (xvii), (xviii), (xix) and (xxii) of the Act – Regarding.

Ref: G.O.(Ms)No.249, dated 22.10.2001 of the Tamil Development, Culture and Religious Endowments Department.

1. A copy of the amendment to the Rules framed under Sec.116 (2) (xvii), (xviii), (xix) and (xxii) of the Act and issued in the Government Order cited is enclosed. All the subordinate officers are requested to strictly adhere to the amended rules while dealing with the works relating to renovation of temples and other works.

2. All subordinate officers are informed that while taking up new works within the temple premises, the site plan, key plan and building plan in respect of the new constructions should be sent to the Commissioner's office for planning permission.

3. Construction of Kalyana Mandapams should not be encouraged from temple funds and any grants will not be given to construction of Kalyana Mandapams. However, in exceptional cases, construction of Kalyana Mandapams maybe undertaken if the entire work is to be done by donors. No grant shall be recommended for sanction from the Commissioner's Common Good Fund or from the Government Funds for works other than the renovation works. As far as works other than renovation of Temples are concerned, they shall not be considered, except if they are to be done by donors.

4. While taking up all types of works through Government Grant or any other grant the plans and estimates should be submitted to the Commissioner for Administrative approval.

5. All the subordinate officers are advised to strictly comply with this circular instructions, in future. Receipt of the circular may be acknowledged.

Sd/- T.R. SRINIVASAN,

Encl: One

Special Commissioner and Commissioner.

GOVERNMENT OF TAMIL NADU

ABSTRACT.

Rules – Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) – Management and Preservation of properties of Religious Institutions Rules framed under Sec.116 (2) (xvii), (xviii), (xix) and (xxii) of the Act – Amendments issued.

TAMIL DEVELOPMENT, CULTURE AND RELIGIOUS ENDOWMENTS DEPARTMENT.

G.O.(Ms).No.249

Dated: 22.10.2001

Read:

1. G.O.(Ms)No.275, Commercial Taxes and Religious Endowments Department, dated 16.7.1997.
2. From the Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Administration Department, Letter No. Rc.70111/2001 D4, dated 27.9.2001.

ORDER:

The Notification appended to this order shall be published in the Tamil Nadu Government Gazette.

(BY ORDER OF THE GOVERNOR)

P.A. RAMIAH,
SECRETARY TO GOVERNMENT

APPENDIX NOTIFICATION.

In exercise of the powers conferred by Clauses (xvii), (xviii), (xix) and (xxi) of Sub-section (2) of Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), the Governor of Tamil Nadu hereby makes the following amendments to the management and Preservation of Properties of Religious Institutions Rules:-

AMENDMENTS

In the said Rules—

- (i) in Rule 2, in Clause (i) in Sub-clause (b)-(a) for the expression "Sections 46(i) and 46(iii)", the expression "Section 46(i), 46(ii) and 46(iii)" shall be substituted;
- (b) for the expression "Rs.2,00,000" the expression "Rs.5,00,000" shall be substituted;
- (ii) in Sub-clause (d)-for the expression "exceeds Rs.10,000 but does not exceed Rs.2,00,000", the expression "exceeds Rs.25,000 but does not exceed Rs.5,00,000" shall be substituted.
- (iii) in Sub-clause (e)-for the expression "Rs.2,00,000" the expression "Rs.5,00,000" shall be substituted.
- (iv) in Sub-clause (f),-for the expression "Rs.1,00,000" the expression "Rs.2,00,000" shall be substituted.
- (v) in Sub-clause (g),- (a) for the expression "Rs.10,000" the expression Rs.25,000" shall be substituted;
- (b) in the *proviso*, for the expression "Rs.1,00,000" the expression "Rs.2,00,000" shall be substituted;
- (vi) in Sub-clause (h),-(a) for the expression "Rs.10,000", the expression "Rs.25,000" shall be substituted.
- (b) in the *proviso*, for the expression "Rs.1,00,000" the expression "Rs.2,00,000" shall be substituted;

(2) in Rule 23 for the columns and entries relating thereto, the following columns and entries shall be substituted, namely:-

Monetary limit (in Rupees)	Technical Authority competent to scrutinize tenders	Administrative Authority to approve tenders
(1)	(2)	(3)
Upto 25,000	Assistant Engineer of the Highways and Rural Works Department and Public Works Department.	In the case of religious institutions not published under Sec.46 of the Act, the Assistant Commissioner having jurisdiction and the Assistant Commissioner/Executive Officer concerned in the case of Religious Institutions having an Executive Officer in the cadre of Assistant Commissioner subject to revision or cancellation by the Commissioner.

25,001 to 2,00,000	Assistant Divisional Engineer of the Highways Department or Assistant Executive Engineer of Public Works Department.	In the case of religious institutions having an Executive Officer in the cadre of Deputy Commissioner, the Deputy Commissioner /Executive Officer concerned subject to revision or cancellation by the Commissioner.
2,00,001 to 5,00,000	Assistant Divisional Engineer of the Highways and Rural Works Department or Assistant Executive Engineer of Public Works Department.	In the case of religious institutions included in the list published under Secs.46 (i) and 46 (ii) and all the institutions not published under Sec.46 of the Act, the Joint Commissioner having jurisdiction and the Joint Commissioner/Executive Officer concerned in respect of religious institutions having an Executive Officer in the cadre of Joint Commissioner subject to revision or cancellation by the Commissioner.
5,00,001 to 50,00,000	By the Superintending Engineer of the Highways and Rural Works Department or Public Works Department.	The Commissioner, subject to the modification or cancellation by the Government.
50,00,000 and above	By the Superintending Engineer of the Highways and Rural Works Department or Public Works Department.	The Government.

P.A. RAMIAH,
SECRETARY TO GOVERNMENT.

Sd.....
SECTION OFFICER.

GOVERNMENT OF TAMIL NADU
ABSTRACT.

Rules – Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) – Management and Preservation of properties of Religious Institutions Rules framed under Sec.116 (2) (xvii), (xviii), (xix) and (xxii) of the Act – Amendment issued.

TAMIL DEVELOPMENT, CULTURE AND RELIGIOUS ENDOWMENTS
DEPARTMENT.

G.O.(Ms).No.252

Dated: 5.11.2001
Read:

1. G.O.(Ms) No.275, Commercial Taxes and Religious Endowments Department, dated 16.7.1997.
2. From the Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Administration Department, Letter No. Rc.70111/2001 D4, dated 27.9.2001.

3. G.O.(Ms)No.249, Tamil Development - Culture and Religious Endowments Department, dated 22.10.2001

ORDER:

The Notification appended to this order shall be published in the Tamil Nadu Government Gazette.

(By Order of the Governor)

P.A. RAMIAH,
SECRETARY TO GOVERNMENT.

To

The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Administration Department, Chennai-34.

The Works Manager, Government Central Press, Chennai-79 (for publication of the Notification in the Tamil Nadu Government Gazette).

The Government Pleader, (HR & CE) High Court, Chennai-104.

The Tamil Development - Culture and Religious Endowments (RE.I), (RE.II), (RE.III), (RE.IV), (RE.V) Department, Chennai-9.

Copy to

G.O.(Ms).No.275, CT & RE Department, dated 16.7.1997.

G.O.Ms.No.248, TDC & RE Department, dated 22.10.2001.

The TDC & RE (RE.IV-2) Department, Chennai-9 to take action to place the papers on the table of the Assembly.

(Forwarded by Order)

Sd/...
Section Officer.

APPENDIX
NOTIFICATION

In exercise of the powers conferred by Clauses (xvii), (xviii), (xix) and (xxii) of Sub-section (2) of Sec.116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), the Governor of Tamil Nadu hereby makes the following amendment to the Management and Preservation of properties of Religious Institutions Rules:-

AMENDMENT

In the said Rules, in Rule 2, in Clause (i), in Sub-clause (d), for the expression, "the estimate of which are upto Rs.5,00,000", the expression " the estimate of which are upto Rs.10,00,000" shall be substituted.

P.A. RAMIAH,
SECRETARY TO GOVERNMENT.

Sd.....
Section Officer.

**PROCEEDINGS OF THE COMMISSIONER, H.R. AND C.E. ADMN. DEPARTMENT
CHENNAI-34**

Present: Thiru G. Ramakrishnan, I.A.S.,
Commissioner

Pro.Rc.No.9641/2004-4D4, dated 10.9.2004

Sub: Delegation of Powers – Under Section 13 (2) of HR & CE Act 22 of 1959 – Sections 29, 30, 31 - Delegate to Joint Commissioners of the Division – Orders issued.

Ref: 1. Commissioner's Pro.Rc.No.9641/2004-1/D4, dated 27.2.2004.

2. Commissioner's Pro.Rc.No.9641/2004-2/D4, dated 27.2.2004.

1. In respect of approval of Registers of properties prepared under Secs.29, 30, and 31 of the Act, powers were delegated to Additional Commissioner, Joint Commissioner (HQRS) and special officer for Temple Lands in the references cited above. The paras. 2, 3 in proceeding first cited and para. (2) in the reference second cited in respect of special officer (Temple Lands) are hereby revoked.

2. With a view to improve efficiency and minimize delay in disposal of matters, and in exercise of the powers contemplated under Sec.13 (2) of the Tamil Nadu HR&CE Act 22 of 1959, the Commissioner delegates his powers conferred on him under Secs.29, 30, 31 of the Act to the Regional Joint Commissioners as follows subject to the over all administrative control by the Commissioner.

3. The Joint Commissioners may, after receiving the registers prepared by the executive authorities of the religious institutions in their respective jurisdiction under Secs.29, 30, and 31 of the Act, with the recommendations of the Assistant Commissioners for approval and after making such inquiry as the Joint Commissioners may consider necessary, with reference to land particulars S.Nos, extent of lands and the certificates issued by the authorities, Patta Books, Title Deeds, etc., approve the Registers.

4. One copy of the register as approved by the Joint Commissioner shall be furnished to the executive authority of the institution, and one copy to the Assistant Commissioner concerned.

5. A monthly periodical report should be submitted on or before 10th of every month to Commissioner in the form appended.

6. This order comes into force with immediate effect.

7. Receipt of this order should be acknowledged by next post.

Sd/- G. Ramakrishnan.
Commissioner

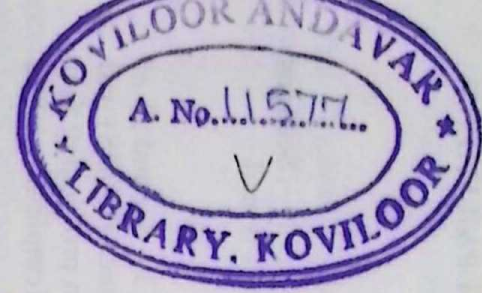
To

1. All Joint Commissioners of the Division.

Copy to:

2. All Gazetted Executive Officers.
3. All Assistant Commissioners.
4. The Additional Commissioner/The Joint Commissioner(HQRS).
The Officer on Special Duty/The Special Officer (Temple Lands).
5. All other Officers at Head Office.
6. All Verification Officers.

7. All Regional Audit Officers.
8. All Superintendents at Head-Office to circulate among the staff,
9. 'M3' Assistant at Head Office/through numbering for follow up action.
10. Copy submitted to the Secretary to Government,
Tamil Development, Culture and Religious Endowments Dept.,
Chennai-9 (with covering letter).
11. Extras.



படிவம் (சட்டப்பிரிவு 29)

இணை ஆணையர் மண்டலம் : (பெயர்)

பதிவேடுகள் எந்த நிலையங்களிலிருந்து வர வேண்டுமோ அவை அந்தக் கோட்டத்தில் எத்தனை எண்ணிக்கை உள்ளன /யில் என்பது. (1)	சென்ற மாதத்தின் இறுதி வரையில் வரப்பெற்ற பதிவேடுகளின் எண்ணிக்கை (2)	நிகழ்மாதத்தில் வரப்பெற்ற பதிவேடுகளின் எண்ணிக்கை (3)	சுடுதல் கலம் (2 3) (4)	மாத இறுதியில் அங்கீகரிக்கப் பட்ட பதிவேடுகளின் எண்ணிக்கை (5)	வரப்பெறாத வற்றின் எண்ணிக்கை (6)	குறிப்புரை (7)
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- குறிப்பு : 1. கலம் 5- க்கு திருக்கோயில் பெயர், உத்திரவு எண்/ நாள் கொண்ட விபரப்பட்டியல் தனியே இணைக்கப்பட வேண்டும்.
2. சட்டப்பிரிவு 30,31 பதிவேடுகள் தொடர்பாக அலுவலக நடைமுறை நூல் 5-வது அத்தியாயத்தின், பத்தி 28, 29ல் குறிப்பிடப்பட்டுள்ள படிவத்தில் விபர அறிக்கை இப்படிவத்துடன் இணைத்து அனுப்ப வேண்டும்.

ஆணையாளருக்காக

